SECTIONS OF LAW RELATED TO MEDICINE

The following are excerpted sections of Arizona law which may affect a physician's practice of medicine or a physician assistant's performance of healthcare tasks in this state. **In some cases only relevant portions of the law are reproduced here.**

ARIZONA REVISED STATUTES

TITLE 11
COUNTIES

CHAPTER 37
COUNTY OFFICERS

ARTICLE 12
COUNTY MEDICAL EXAMINER

11-591. County medical examiner; appointment; qualifications; compensation

A. The board of supervisors of each county may appoint a qualified person to the position of county medical examiner.

B. The county medical examiner shall be a licensed physician in good standing certified in pathology and skilled in forensic pathology. The medical examiner shall receive compensation as determined by the board of supervisors.

11-592. List of physicians in lieu of medical examiner; fund; notification; special examinations

A. If the board of supervisors determines that the appointment of a medical examiner is not practical, the board of supervisors shall establish a list of licensed physicians who will be available to perform the duties required of a county medical examiner. A licensed physician on the list need not be a resident of the county, need not be certified in pathology nor skilled in forensic pathology but shall have agreed to perform medical examinations or autopsies to determine the cause and manner of death on behalf of the county on a contract basis.

B. If the board of supervisors establishes a list of licensed physicians in lieu of appointing a county medical examiner, the board may establish a fund known as the county medical examination fund and shall pay expenses incurred by the licensed physicians in the performance of the duties of the county medical examiner from such fund.

C. The sheriff of the county shall be responsible for notifying and securing a licensed physician on the list to perform a medical examination or autopsy required by law.

D. Upon request of the county attorney or the attorney general, the licensed physician employed by the board of supervisors and secured by the sheriff shall be a licensed physician certified in pathology and skilled in forensic pathology.

11-593. Reporting of certain deaths; autopsies; failure to report; classification

A. Any person having knowledge of the death of a human being including a fetal death shall promptly notify the nearest peace officer of all information in the person's possession regarding the death and the circumstances surrounding it under any of the following circumstances:

1. Death when not under the current care of a physician for a potentially fatal illness or when an attending physician is unavailable to sign the death certificate.

2. Death resulting from violence.

3. Death occurring suddenly when in apparent good health.

4. Death occurring in a prison.

5. Death of a prisoner.

6. Death occurring in a suspicious, unusual or unnatural manner.

7. Death from disease or accident believed to be related to the deceased's occupation or employment.

8. Death believed to present a public health hazard.

9. Death occurring during anesthetic or surgical procedures.

B. The peace officer shall promptly notify the county medical examiner and, except in deaths occurring during surgical or anesthetic procedures from natural diseases, shall promptly make or cause to be made an investigation of the facts and circumstances surrounding the death and report the results to the medical examiner. If there is no county medical examiner appointed and serving within the county, the county sheriff shall be notified by the peace officer and the sheriff shall in turn notify and secure a licensed physician to perform the medical examination or autopsy.

C. An autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures, except where the medical examiner determines an autopsy is necessary because any of the following exist:

1. A public health risk.

2. Evidence of a crime.

3. Evidence of inadequate health care.

4. No clinically evident cause of death.

D. Every person who knows of the existence of a body where death occurred as specified in subsection A of this section and who knowingly fails to notify the nearest peace officer as soon as possible unless the person has good reason to believe that notice has already been given is guilty of a class 2 misdemeanor.

E. If the deceased was under treatment for accident or illness by prayer or spiritual means alone, in accordance with the tenets and practices of a well-recognized church or religious denomination, and death occurred without a physician or nurse practitioner in attendance, the person who has knowledge of the death shall report all information in his possession regarding the death and circumstances surrounding it directly to the county medical examiner or the person performing the duties of a county medical examiner who may waive an autopsy if he is satisfied that the death of such person resulted from natural causes.

F. Each county shall provide to the criminal identification section of the department of public safety fingerprints of all deceased persons whose deaths are required to be investigated pursuant to this section. These fingerprints shall be on a form provided by the criminal identification section and shall be accompanied by such other information regarding the physical description and the date and place of death as the criminal identification section may require. Fingerprints taken pursuant to this section shall be used only for the purpose of purging criminal history files. All information and data in the criminal identification section of the department of public safety furnished in compliance with this section is confidential and may be disclosed only upon written approval of the director of public safety to the juvenile court, social agencies, public health and law enforcement agencies, licensed or regulated by this state.

11-594. Powers and duties of county medical examiner

A. The county medical examiner or a licensed physician employed to perform such functions shall:

1. Be responsible for medical examination or autopsy of a human body when death occurred under any of the circumstances set forth in section 11-593, subsection A.

2. Take charge of the dead body of which the medical examiner is notified and, after making inquiries regarding the cause and manner of death, examine the body.

3. Certify to the cause and manner of death following a medical examination or an autopsy, or both.

4. Make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report on forms prescribed for that purpose.

5. Execute a death certificate provided by the state registrar of vital statistics indicating the cause as well as the manner of death for those bodies on which a medical examination or autopsy is performed.

6. Notify the county attorney when death is found to be from other than natural causes.

7. Notify the appropriate city, town, county or state law enforcement agency if further investigation by such agency appears necessary.

8. Carry out the duties specified under section 28-668.

9. Carry out the duties specified under title 36, chapter 7, article 3.

B. The county medical examiner may:

1. Appoint qualified professional, technical and clerical personnel as necessary for the administration of the office, subject to approval of the board of supervisors.

2. Authorize qualified practicing physicians in local areas to perform medical examinations required of the county medical examiner. Authorization and the amount to be paid by the county for physician services are subject to approval of the board of supervisors.

C. The county medical examiner or a licensed physician employed to perform these functions may:

1. Authorize the taking of anatomical gifts as they prove to be usable for transplants or other treatment or therapy if all of the requirements of title 36, chapter 7, article 3 are met. The medical examiner shall give this authorization within a time period that permits a medically viable donation.

2. Authorize licensed or authorized physicians, surgeons or trained technicians who remove parts of bodies to perform any part of a necessary medical examination provided they follow a protocol established by the medical examiner or a person authorized to act as the medical examiner.

3. Limit the removal of organs or tissues for transplants or other therapy or treatment if, based on a physical examination of the body within a time that permits a medically viable donation, their removal would interfere with a medical examination, autopsy or certification of death. If the medical examiner limits the removal of organs or tissue, the medical examiner shall provide a written explanation of this decision to the organ procurement agency within three working days of the physical examination.

D. If a dispute arises over the findings of the medical examiner's report, the medical examiner shall, upon an order of the superior court, make available all evidence and documentation to a court-designated licensed forensic pathologist for examination, and the results of the examination shall be reported to the superior court in the county issuing the order.

E. For providing medical examinations and reports pursuant to subsection C of this section, the medical examiner may charge a fee established by the board of supervisors pursuant to section 11-251.08.

11-594.01. Immunity relating to organ donation

A county medical examiner, a licensed physician acting with the permission of a medical examiner and those persons assisting a physician shall not be held civilly or criminally liable for any acts performed in good faith pursuant to section 11-594, subsection C.

11-595. Right to enter premises; right to seize articles

A. The county medical examiner or any person performing the duties of a county medical examiner may enter any room, dwelling, building or other place in which the body or evidence of the circumstances of the death requiring investigation may be found, provided that a law enforcement agent investigating the death obtains a search warrant for private property other than in the immediate location where the body was found.

B. The county medical examiner or any person performing the duties of a county medical examiner, with the permission of the law enforcement agent investigating the death may take into his or her possession any object or article found on the deceased or in the deceased's immediate vicinity which in his or her opinion may aid in the determination of the deceased's identity or determination of the cause or manner of death. Upon completion of his or her findings, the medical examiner or the person performing the duties of a county medical examiner shall within thirty days, deliver such object or article to the law enforcement agency concerned, the legal representative of the deceased or to the county treasurer.

11-596. Removal or disturbance of body or effects or weapons without consent prohibited

No human body or body suspected of being human shall be removed from the place where the death, if the death is of a nature requiring investigation occurred without first obtaining permission of the county medical examiner or the person performing the duties of a county medical examiner. No embalming, cleansing of the surfaces of the body or other alteration of the appearance or state of the body, clothing or personal effects shall be performed until the permission of such official has been obtained. No person, except a law enforcement agent in the performance of his or her duties, shall remove from the place of death or from the body of the deceased any of the effects of the deceased, or instruments or weapons that may have been used in the death requiring investigation, unless prior permission of the county medical examiner, the person performing the duties of a county medical examiner or the investigating law enforcement agent has been obtained.

11-597. Autopsies; reports; exemption from liability

A. The county medical examiner or person performing the duties of a county medical examiner shall conduct such investigation as may be required and shall determine whether or not the public interest requires an autopsy or other special investigation. In his or her determination of the need for an autopsy, the county medical examiner or person performing the duties of a county medical examiner may consider the request for an autopsy made by private persons or public officials. If the county attorney or a superior court judge of the county where the death occurred requests, the county medical examiner or the licensed physician performing the duties of a county medical examiner shall perform an autopsy.

B. The county medical examiner or the licensed physician performing the duties of a county medical examiner shall perform an autopsy in cases of sudden and unexplained infant death in accordance with protocols adopted by the director of the department of health services. If the examiner determines that the infant died of sudden infant death syndrome, the examiner shall notify the department of health services. The examiner may take tissue samples for research purposes from an infant who died of sudden infant death syndrome if the tissue removal is not likely to result in any visible disfigurement, except that tissue samples for research purposes shall not be taken if a parent of the infant objects on the grounds such procedure conflicts with personal beliefs.

C. If an autopsy is performed, a full record or report of the facts developed by the autopsy in the findings of the person making such autopsy shall be properly made and filed in the office of the county medical examiner or the board of supervisors. If the person performing the autopsy determines that the report should be forwarded to the county where the death occurred or the county wherein any injury contributing to or causing the death was sustained, he shall forward a copy of the report to the county attorney.

D. A county attorney may request and upon request shall receive from the county medical examiner or a person performing the duties of a county medical examiner a copy of the report on any autopsy performed.

E. The county medical examiner or person performing the duties of a county medical examiner may perform such other tests deemed necessary to determine identity, cause and manner of death and may retain tissues, specimens and other biological materials for subsequent examination.

F. When an autopsy or such other tests are performed by the county medical examiner or person performing the duties of a county medical examiner, no cause of action shall lie against the physician or any other person for requesting the autopsy or for participating in the autopsy.

11-598. Exhumation; court order

If in any case of sudden, violent or suspicious death a body is buried without any inquiries by the county medical examiner or person performing the duties of a county medical examiner, the county attorney of the county wherein the body is buried may petition the superior court for an order directing that the body be exhumed and an autopsy performed thereon. The court after hearing may order that the body be exhumed and that an autopsy or such other investigation as the court deems appropriate be performed.

11-599. Cremation

When a funeral director or embalmer is requested to cremate or prepare for cremation the body of a dead person, he or she or any other person having knowledge of an intention to so cremate shall notify the county medical examiner or if there is no county medical examiner within the county, the county sheriff and request that an examination of the death certificate be made prior to the cremation. If there is no medical examiner within the county, the county sheriff shall notify and secure a licensed physician to examine the death certificate. If after examination the county medical examiner or person performing the duties of a county medical examiner is satisfied that there is no evidence of foul play or violence, he or she shall so certify and a copy of such certification shall be attached to the death certificate.

11-600. Burial of indigent deceased; disposal of property

A. When an examination has been completed by the county medical examiner or the person performing the duties of a county medical examiner and no other person takes charge of the body of the deceased, the medical examiner shall cause the body to be delivered to the funeral establishment, licensed pursuant to title 32, chapter 12, article 4, closest geographically to the place where the body is pronounced dead, for preservation, disinfection and final disposition. The medical examiner or person performing the duties of a county medical examiner may establish geographical areas within the county and a rotation system whereby the bodies are delivered equally in sequence to all licensed funeral establishments in each geographical area. All licensed funeral establishments in any incorporated city or town shall be in the same geographical area. Area boundaries in unincorporated areas shall be drawn so as to approximate equal distances between incorporated cities or towns in which a licensed funeral establishment or establishments exist. Upon request of any licensed funeral establishment, in writing, they shall be removed from participation in the receipt of medical examiner cases until they rescind their request. If there is not sufficient property in the estate of the deceased to pay the necessary expenses of the burial, the expenses shall be a legal charge against the county. Upon determination of indigency the funeral establishment shall perform the normal county indigent burial, in the manner and for the fee then being paid by the county, or release the body, upon county request, without fee, to the funeral establishment designated by the county for other indigent burials.

B. Notwithstanding subsection A of this section, the county medical examiner may cause the body to be delivered to a community college under the jurisdiction of the state board of directors for community colleges, if the community college has an accredited mortuary science program. On acceptance of the body, the community college mortuary science program shall with proper authorization preserve and disinfect the body, prepare it for final disposition and deliver the body to a licensed funeral establishment pursuant to subsection A of this section for final disposition. For the purposes of this subsection, proper authorization may be provided by the next of kin pursuant to section 36-831, subsection A or the public fiduciary of the county.

C. Within thirty days after the examination, the medical examiner or person performing the duties of the county medical examiner shall deliver to the county treasurer or the legal representative of the deceased any money or property found upon the body.

TITLE 12
COURTS AND CIVIL PROCEEDINGS

CHAPTER 5.1
ACTIONS RELATING TO HEALTH CARE

ARTICLE 1
GENERAL PROVISIONS

12-570. Malpractice settlement or award reporting; civil penalty; definition

A. If a medical malpractice action or an action brought under §46-455 against a nursing care institution is settled or a court enters a monetary judgment:

1. The professional liability insurers shall provide the defendant's health profession regulatory board with all information required to be filed with the national practitioner data bank pursuant to Public Law 99-660. In the case of an action brought under §46-455 against a nursing care institution, the information shall be provided to the department of health services.

2. The plaintiff's attorney shall provide the defendant's health profession regulatory board, or, in the case of an action brought against a nursing care institution, the department of health services, with the notice described in subsection B of this section, a copy of the complaint and a copy of either the agreed terms of settlement or the judgment. The attorney shall provide this notice and these documents within thirty days after a settlement is reached or a judgment is entered.

B. The notice required by subsection A of this section shall contain the following information:

1. The name and address of each defendant.

2. The name, date of birth and address of each plaintiff.

3. The date and location of the occurrence which created the claim.

4. A statement specifying the nature of the occurrence resulting in the malpractice action.

5. A copy of all expert witness depositions, a transcript of all expert witness court testimony or a written evaluation of the case by an expert witness.

C. The notice required by subsection A of this section is not discoverable and not admissible as evidence.

D. An attorney who does not supply the information required by subsections A and B of this section within thirty days after the notice of settlement or judgment is due under subsection A of this section is subject to a civil penalty of five hundred dollars.

E. A confidentiality clause in a settlement agreement does not apply to the reporting requirements of this section.

F. For the purposes of this section, "health profession regulatory board" has the same meaning prescribed in section 32-3201.

12-571. Qualified immunity; health professionals; nonprofit clinics; previously owned prescription eyeglasses

A. A health professional, as defined in section 32-3201, who provides medical or dental treatment within the scope of the health professional's certificate or license at a nonprofit clinic where neither the professional or the clinic receives compensation for any treatment provided at the clinic is not liable in a medical malpractice action, unless such health professional was grossly negligent.

B. A health professional who, within the professional's scope of practice, provides previously owned prescription eyeglasses free of charge through a charitable, nonprofit or fraternal organization is not liable for an injury to the recipient if the recipient or the recipient's parent or legal guardian has signed a medical malpractice release form and the injury is not a direct result of the health professional's intentional misconduct or gross negligence. For purposes of this subsection, "medical malpractice release form" means a document that the recipient or the recipient's parent or legal guardian signs before the recipient receives the eyeglasses pursuant to this subsection to acknowledge that the eyeglasses were not made specifically for the recipient and to accept full responsibility for the recipient's eye safety.

Title 12
COURTS AND CIVIL PROCEEDINGS

CHAPTER 1
COURTS OF RECORD

ARTICLE 7.1
MEDICAL RECORDS

12-2291. Definitions

In this article, unless the context otherwise requires:

1. "Contractor" means an agency or service that duplicates medical records on behalf of health care providers.

2. "Department" means the department of health services.

3. "Health care decision maker" means an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor or an individual who is authorized pursuant to section 8-514.05, title 14, chapter 5, article 2 or 3 or section 36-3221, 36-3231 or 36-3281.

4. "Health care provider" means:

a. A person who is licensed pursuant to title 32 and who maintains medical records.

b. A health care institution as defined in section 36-401.

c. An ambulance service as defined in section 36-2201.

d. A health care services organization licensed pursuant to title 20, chapter 4, article 9.

5. "Medical records" means all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment, including medical records that are prepared by a health care provider or by other providers. Medical records do not include materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917. Medical records do not include recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity, but shall include communications that are recorded in any form or medium between emergency medical personnel and medical personnel concerning the diagnosis or treatment of a person.

6. "Payment records" means all communications related to payment for a patient's health care that contain individually identifiable information.

7. "Source data" means information that is summarized, interpreted or reported in the medical record, including x-rays and other diagnostic images.

12-2292. Confidentiality of medical records and payment records

A. Unless otherwise provided by law, all medical records and payment records, and the information contained in medical records and payment records, are privileged and confidential. A health care provider may only disclose that part or all of a patient's medical records and payment records as authorized by state or federal law or written authorization signed by the patient or the patient's health care decision maker.

B. This article does not limit the effect of any other federal or state law governing the confidentiality of medical records and payment records.

12-2293. Release of medical records and payment records to patients and health care decision makers; definition

A. Except as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.

B. A health care provider may deny a request for access to or copies of medical records or payment records if a health professional determines that either:

1. Access by the patient or the patient's health care decision maker is reasonably likely to endanger the life or physical safety of the patient or another person.

2. The records make reference to a person other than a health professional and access by the patient or the patient's health care decision maker is reasonably likely to cause substantial harm to that other person.

3. Access by the patient's health care decision maker is reasonably likely to cause substantial harm to the patient or another person.

4. Access by the patient or the patient's health care decision maker would reveal information obtained under a promise of confidentiality with someone other than a health professional and access would be reasonably likely to reveal the source of the information.

C. A health care provider may deny a request for access to or copies of medical records or payment records if the health care provider determines that either:

1. The information was created or obtained in the course of clinical research and the patient or the patient's health care decision maker agreed to the denial of access when consenting to participate in the research and was informed that the right of access will be reinstated on completion of the research.

2. A health care provider is a correctional institution or is acting under the direction of a correctional institution and access by a patient who is an inmate in the correctional institution would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates or the safety of any officer, employee or other person at the correctional institution or of a person who is responsible for transporting the inmate.

D. If the health care provider denies a request for access to or copies of the medical records or payment records, the health care provider must note this determination in the patient's records and provide to the patient or the patient's health care decision maker a written explanation of the reason for the denial of access. The health care provider must release the medical records or payment records information for which there is not a basis to deny access under subsection B of this section.

E. For the purpose of this section, "health professional" has the same meaning prescribed in section 32-3201.

12-2294. Release of medical records and payment records to third parties

A. A health care provider shall disclose medical records or payment records, or the information contained in medical records or payment records, without the patient's written authorization as otherwise required by law or when ordered by a court or tribunal of competent jurisdiction.

B. A health care provider may disclose medical records or payment records, or the information contained in medical records or payment records, pursuant to written authorization signed by the patient or the patient's health care decision maker.

C. A health care provider may disclose medical records or payment records or the information contained in medical records or payment records without the written authorization of the patient or the patient's health care decision maker as otherwise authorized by state or federal law, including the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or as follows:

1. To health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.

2. To health care providers who have previously provided treatment to the patient, to the extent that the records pertain to the provided treatment.

3. To ambulance attendants as defined in section 36-2201 for the purpose of providing care to or transferring the patient whose records are requested.

4. To a private agency that accredits health care providers and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

5. To a health profession regulatory board as defined in section 32-3201.

6. To health care providers for the purpose of conducting utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

7. To a person or entity that provides billing, claims management, medical data processing, utilization review or other administrative services to the patient's health care providers and with whom the health care provider has an agreement requiring the person or entity to protect the confidentiality of patient information.

8. To the legal representative of a health care provider in possession of the medical records or payment records for the purpose of securing legal advice.

9. To the patient's third party payor or the payor's contractor.

10. To the industrial commission of Arizona or parties to an industrial commission claim pursuant to title 23, chapter 6.

D. A health care provider may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the patient's health care decision maker at the time of the patient's death. A health care provider also may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the personal representative or administrator of the estate of a deceased patient, or if a personal representative or administrator has not been appointed, to the following persons in the following order of priority, unless the deceased patient during the deceased patient's lifetime or a person in a higher order of priority has notified the health care provider in writing that the deceased patient opposed the release of the medical records or payment records:

1. The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death.

2. The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during the deceased patient's lifetime.

3. An adult child of the deceased patient.

4. A parent of the deceased patient.

5. An adult brother or sister of the deceased patient.

6. A guardian or conservator of the deceased patient at the time of the patient's death.

E. A person who receives medical records or payment records pursuant to this section shall not disclose those records without the written authorization of the patient or the patient's health care decision maker, unless otherwise authorized by law.

F. If a health care provider releases a patient's medical records or payment records to a contractor for the purpose of duplicating or disclosing the records on behalf of the health care provider, the

contractor shall not disclose any part or all of a patient's medical records or payment records in its custody except as provided in this article. After duplicating or disclosing a patient's medical records or payment records on behalf of a health care provider, a contractor must return the records to the health care provider who released the medical records or payment records to the contractor.

12-2294.01 Release of medical records or payment records to third parties pursuant to subpoena

A. A subpoena seeking medical records or payment records shall be served on the health care provider and any party to the proceedings at least ten days before the production date on the subpoena.

B. A subpoena that seeks medical records or payment records must meet one of the following requirements:

1. The subpoena is accompanied by a written authorization signed by the patient or the patient's health care decision maker.

2. The subpoena is accompanied by a court or tribunal order that requires the release of the records to the party seeking the records or that meets the requirements for a qualified protective order under the health insurance portability and accountability act privacy standards (42 Code of Federal Regulations section 164.512(e)).

3. The subpoena is a grand jury subpoena issued in a criminal investigation.

4. The subpoena is issued by a health profession regulatory board as defined in section 32-3201.

5. The health care provider is required by another law to release the records to the party seeking the records.

C. If a subpoena does not meet one of the requirements of subsection B of this section, a health care provider shall not produce the medical records or payment records to the party seeking the records, but may either file the records under seal pursuant to subsection D of this section, object to production under subsection E of this section or file a motion to quash or modify the subpoena under rule 45 of the Arizona Rules of Civil Procedure.

D. It is sufficient compliance with a subpoena issued in a court or tribunal proceeding if a health care provider delivers the medical records or payment records under seal as follows:

1. The health care provider may deliver by certified mail or in person a copy of all the records described in the subpoena by the production date to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal, together with the affidavit described in paragraph 4 of this subsection.

2. The health care provider shall separately enclose and seal a copy of the records in an inner envelope or wrapper, with the title and number of the action, name of the health care provider and date of the subpoena clearly inscribed on the copy of the records. The health care provider shall enclose the sealed envelope or wrapper in an outer envelope or wrapper that is sealed and directed to the clerk of the court or tribunal or of there is no clerk then to the court or tribunal.

3. The copy of the records shall remain sealed and shall be opened only on order of the court or tribunal conducting the proceeding.

4. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

a. That the affiant is the duly authorized custodian of the records and has authority to certify the records.

b. That the copy is a true complete copy of the records described in the subpoena.

c. If applicable, that the health care provider is subject to the confidentiality requirements in 42 United States code sections 290dd-3 and 290ee-3 and applicable regulations and that those confidentiality requirements may apply to the requested records. The affidavit shall request that the court make a determination, if required under applicable federal law and regulations, as to the confidentiality of the records submitted.

d. If applicable, that the health care provider has none of the records described or only part of the records described in the subpoena.

5. The copy of the records is admissible in evidence as provided under rule 902(11), Arizona rules of evidence. The affidavit is admissible as evidence of the matters stated in the affidavit and the matters stated are presumed true. If more than one person has knowledge of the facts, more than one affidavit may be made. The presumption established by this paragraph is a presumption affecting the burden of producing evidence.

E. If a subpoena does not meet one of the requirements of subsection B of this section or if grounds for objection exist under rule 45 of the Arizona Rules of Civil Procedure, a health care provider may file with the court or tribunal an objection to the inspection or copying of any or all of the records as follows:

1. On filing an objection, the health care provider shall send a copy of the objection to the patient at the patient's last known address, to the patient's attorney if known and to the party seeking the records, unless after reasonable inquiry the health care provider cannot determine the last known address of the patient.

2. On filing the objection, the health care provider has no further obligation to assert a state or federal privilege pertaining to the records or to appear or respond to a motion to compel production of records, and may produce the records if ordered by a court or tribunal. If an objection is filed, the patient or the patient's attorney is responsible for asserting or waiving any state or federal privilege that pertains to the records.

3. If an objection is filed, the party seeking production may request an order compelling production of the records. If the court or tribunal issues an order compelling production, a copy of the order shall be provided to the health care provider. On receipt of the order, the health care provider shall produce the records.

4. If applicable, an objection shall state that the health care provider is subject to the confidentiality requirements in 42 United States code sections 290dd-3 and 290ee-3, shall state that the records may be subject to those confidentiality requirements and shall request that the court make a determination, if required under the applicable federal law and regulations, on whether the submitted records are subject to discovery.

F. If a party seeking medical records or payment records wishes to examine the original records maintained by a health care provider, the health care provider may permit the party to examine the

original records if the subpoena meets one of the requirements of subsection B of this section. The party seeking the records also may petition a court or tribunal for an order directing the health care provider to allow the party to examine the original records or to file the original records under seal with the court or tribunal under subsection D of this section.

12-2295. Charges

A. Except as otherwise provided by law, a health care provider or contractor may charge a person who requests copies of medical records or payment records a reasonable fee for the production of the records. Except as necessary for continuity of care, a health care provider or contractor may require the payment of any fees in advance.

B. A health care provider or contractor shall not charge for the pertinent information contained in medical records provided to:

1. Another health care provider for the purpose of providing continuing care to the patient to whom the medical record pertains.

2. The patient to whom the medical record pertains for the demonstrated purpose of obtaining health care.

3. The health care decision maker of the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care for the patient.

4. The Arizona medical board, the board if osteopathic examiners in medicine and surgery or an officer of the department of health services or the local health department requesting records pursuant to section 36-662.

12-2296. Immunity

A health care provider or contractor that acts in good faith under this article is not liable for damages in any civil action for the disclosure of medical records or payment records or information contained in medical records or payment records that is made pursuant to this article or as otherwise provided by law. The health care provider or contractor is presumed to have acted in good faith. The presumption may be rebutted by clear and convincing evidence.

12-2297. Retention of records

A. Unless otherwise required by statute or by federal law, a health care provider shall retain the original or copies of a patient's medical records as follows:

1. If the patient is an adult, for at least six years after the last date the adult patient received medical or health care services from that provider.

2. If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received medical or health care services from that provider, whichever date occurs later.

3. Source data may be maintained separately from the medical record and must be retained for six years from the date of collection of the source data.

B. When a health care provider retires or sells the provider's practice the provider shall take reasonable measures to ensure that the provider's records are retained pursuant to this section.

C. A person who is licensed pursuant to title 32 as an employee of a health care provider is not responsible for storing or retaining medical records but shall compile and record the records in the customary manner.

D. A nursing care institution as defined in section 36-401, shall retain patient records for six years after the date of the patient's discharge. For a minor, the nursing care institution shall retain the records for three years after the patient reaches eighteen years of age or for six years after the date of the patient's discharge, whichever date occurs last.

TITLE 12
COURTS AND CIVIL PROCEEDINGS

CHAPTER 17
CLAIMS AGAINST LICENSED PROFESSIONALS

ARTICLE I
GENERAL PROVISIONS

12-2604. Expert witness qualifications; medical malpractice actions.

A. In an action alleging medical malpractice, a person shall not give expert testimony on the appropriate standard of practice or care unless the person is licensed as a health professional in this state or another state and the person meets the following criteria:

1. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist, specializes at the time of the occurrence that is the basis for the action in the same specialty or claimed specialty as the party against whom or on whose behalf the testimony is offered. If the party against whom or on whose behalf the testimony is offered is or claims to be a specialist who is board certified, the expert witness shall be a specialist who is board certified in that specialty or claimed specialty.

2. During the year immediately preceding the occurrence giving rise to the lawsuit, devoted a majority of the person's professional time to either or both of the following:

a. The active clinical practice of the same health profession as the defendant and, if the defendant is or claims to be a specialist, in the same specialty or claimed specialty.

b. The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant and, if the defendant is or claims to be a specialist, in an accredited health professional school or accredited residency or clinical research program in the same specialty or claimed specialty.

3. If the defendant is a general practitioner, the witness has devoted a majority of the witness's professional time in the year preceding the occurrence giving rise to the lawsuit to either or both of the following:

a. Active clinical practice as a general practitioner.

b. Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession as the defendant.

4. If the defendant is a health care institution that employs a health professional against whom or on whose behalf the testimony is offered, the provisions of this subsection apply as if the health professional were the party or defendant against whom or on whose behalf the testimony is offered.

B. This section does not limit the power of the trial court to disqualify an expert witness on grounds other than the qualifications set forth under this section.

C. An expert witness in a medical malpractice case shall not be permitted to testify if the fee of the witness is in any way contingent on the outcome of the case.

12-2605. Evidence of admissions; civil proceedings; unanticipated outcomes; medical care

In any civil action that is brought against a health care provider as defined in section 12-561 or in any arbitration proceeding that relates to the civil action, any statement, affirmation, gesture or conduct expressing apology, responsibility, liability, sympathy, commiseration, condolence, compassion or a general sense of benevolence that was made by a health care provider or an employee of a health care provider to the patient, a relative of the patient, the patient's survivors or a health care decision maker for the patient and that relates to the discomfort, pain, suffering, injury or death of the patient as the result of the unanticipated outcome of medical care is inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

TITLE 12
COURTS AND CIVIL PROCEEDINGS

CHAPTER 19
GENETIC TESTING

12-2801. Definitions

2. “Health care decision maker” means a person who is authorized to make health care treatment decisions for the patient, including a parent of a minor and a person who is authorized to make these decisions pursuant to title 14, chapter 5, article 2 or 3 or sections 8-514.05, 36-3221, 36-3231 or 36-3281.

3. “Health care provider” means physicians licensed pursuant to title 32, chapter 13 or 17, physician assistants licensed pursuant to title 32, chapter 25, registered nurse practitioners licensed pursuant to title 32, chapter 15, health care institutions as defined in section 36-401 and clinical laboratories licensed pursuant to title 36, chapter 4.1.

TITLE 13
CRIMINAL CODE

CHAPTER 14
SEXUAL OFFENSES

13-1418. Sexual misconduct; behavioral health professionals; classification

A. A behavioral health professional certified pursuant to title 32, chapter 33 or a psychiatrist or psychologist licensed pursuant to title 32, chapter 13, 17 or 19.1 commits sexual misconduct by intentionally or knowingly engaging in sexual intercourse with a patient who is currently under the care or supervision of the certified behavioral health professional, psychiatrist or psychologist.

B. Sexual misconduct by a certified behavioral health professional, psychiatrist or psychologist is a class 6 felony.

C. This section does not apply to any act of sexual conduct that occurs between a certified behavioral health professional, psychiatrist or psychologist and a patient after the patient has completed a course of treatment or if the patient is not under the care of the certified behavioral health professional, psychiatrist or psychologist.

TITLE 13
CRIMINAL CODE

CHAPTER 34
DRUG OFFENSES

13-3412. Exceptions and exemptions; burden of proof; privileged communications

A. The provisions of sections 13-3402, 13-3403, and 13-3404, section 13-3404.01, subsection A, paragraph 1, and sections 13-3405 through 13-3409 do not apply to:

1. Manufacturers, wholesalers, pharmacies and pharmacists under the provisions of sections 32-1921 and 32-1961.

2. Medical practitioners, pharmacies and pharmacists while acting in the course of their professional practice, in good faith and in accordance with generally accepted medical standards.

3. Persons who lawfully acquire and use such drugs only for scientific purposes.

4. Officers and employees of the United States, this state or a political subdivision of the United States or this state, while acting in the course of their official duties.

5. An employee or agent of a person described in paragraphs 1 through 4 of this subsection, and a registered nurse or medical technician under the supervision of a medical practitioner, while the employee, agent, nurse or technician is acting in the course of professional practice or employment, and not on his own account.

6. A common or contract carrier or warehouseman, or an employee of the carrier or warehouseman, whose possession of drugs is in the usual course of business or employment.

7. Persons lawfully in possession or control of controlled substances authorized by title 36, chapter 27.

8. Persons who sell any non-narcotic substance that under the federal food, drug and cosmetic act may lawfully be sold over the counter without a prescription.

9. The receipt, possession or use, of a controlled substance included in schedule I of section 36-2512, by any seriously ill or terminally ill patient, pursuant to the prescription of a doctor in compliance with the provisions of section 13-3412.01

B. In any complaint, information or indictment and in any action or proceeding brought for the enforcement of any provision of this chapter the burden of proof of any exception, excuse, defense or exemption is on the defendant.

C. In addition to other exceptions to the physician-patient privilege, information communicated to a physician in an effort to procure unlawfully a prescription-only, dangerous or narcotic drug, or to procure unlawfully the administration of a prescription-only, dangerous or narcotic drug, is not a privileged communication.

13-3412.01. Prescribing controlled substances included in schedule I for seriously ill and terminally ill patients

A. Notwithstanding any law to the contrary, any medical doctor licensed to practice in this state may prescribe a controlled substance included in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or terminally ill patient, subject to the provisions of this section. In prescribing such a controlled substance, the medical doctor shall comply with professional medical standards.

B. Notwithstanding any law to the contrary, a medical doctor shall document that scientific research exists that supports the use of a controlled substance listed in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or a terminally ill patient before prescribing the controlled substance. A medical doctor prescribing a controlled substance included in schedule I as prescribed by section 36-2512 to treat a disease, or to relieve the pain and suffering of a seriously ill patient or terminally ill patient, shall obtain the written opinion of a second medical doctor that prescribing the controlled substance is appropriate to treat a disease or to relieve the pain and suffering of a seriously ill patient or terminally ill patient. The written opinion of the second medical doctor shall be kept in the patient's official medical file. Before prescribing the controlled substance included in schedule I as prescribed by section 36-2512 the medical doctor shall receive in writing the consent of the patient.

C. Any failure to comply with the provisions of this section may be the subject of investigation and appropriate disciplining action by the Arizona medical board.

(NOTE: For the complete text of the Arizona Uniform Controlled Substances Act, see Arizona Revised Statutes Section 36-2501 et seq.)

TITLE 13
CRIMINAL CODE

CHAPTER 36
FAMILY OFFENSES

ARTICLE 2
DUTY TO REPORT NONACCIDENTAL INJURIES

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.

2. Any peace officer, member of the clergy, priest or christian science practitioner.

3. The parent, stepparent or guardian of the minor.

4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.

5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.

2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.

3. Any other information that the person believes might be helpful in establishing the cause of abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.

2. "Child abuse" means child abuse pursuant to section 13-3623.

3. "Neglect" has the same meaning prescribed in section 8-201.

4. “Reportable offense” means any of the following.

a. Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.

b. Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.

c. Child prostitution pursuant to section 13-3212.

d. Incest pursuant to section 13-3608.

TITLE 13
CRIMINAL CODE

CHAPTER 38
MISCELLANEOUS

ARTICLE 1
DUTY TO REPORT TREATMENT OF WOUNDS

13-3806. Duty of physician or attendant upon treating certain wounds; classification

A. A physician, surgeon, nurse or hospital attendant called upon to treat any person for gunshot wounds, knife wounds or other material injury which may have resulted from a fight, brawl, robbery or other illegal or unlawful act, shall immediately notify the chief of police or the city marshal, if in an incorporated city or town, or the sheriff, or the nearest police officer, of the circumstances, together with the name and description of the patient, the character of the wound and other facts which may be of assistance to the police authorities in the event the condition of the patient may be due to any illegal transaction or circumstances.

B. Any violation of the provisions of this section by a physician, surgeon, nurse or hospital attendant, is a class 3 misdemeanor.

TITLE 20
INSURANCE

CHAPTER 6
PARTICULAR TYPES OF INSURANCE

ARTICLE 4
REPORTING REQUIREMENTS

20-1742. Insurers to report malpractice claims and actions; definition

A. Each health care insurer providing professional liability insurance to a health professional as defined in section 32-3201 shall report to the appropriate health profession regulatory board, except the Arizona medical board, within thirty days of its receipt, any written or oral claim or action for damages for personal injury claimed to have been caused by:

1. An error, omission or negligence in the performance of an insured's professional services.

2. The performance of professional services without adequate informed consent.

3. An alleged breach of contract for professional services.

B. The reports required by subsection A of this section shall be confidential, nondiscoverable and nonadmissible as evidence, shall be filed on such forms as the health profession regulatory board, except the Arizona medical board, may require and shall contain:

1. The name and address of the health professional involved in the claim.

2. The name and address of the person on whose behalf the claim is being filed.

3. The date of the occurrence that created the claim.

4. The date of the claim if a complaint is not simultaneously filed.

5. The date the complaint is filed, if applicable.

6. A summary of the occurrence on which the claim is based as stated by the claimant.

7. Such other reasonable information related to the claim as the director may require.

C. Every health care insurer required to report to the health profession regulatory board pursuant to this section is required to advise the health profession regulatory board of any settlements or judgments entered against a health professional as defined in section 32-3201 within thirty days after the settlement was agreed to or the judgment was entered in superior court.

D. There shall be no liability on the part of and no cause of action shall arise against any health care insurer or its agents or employees reporting as required by this section.

E. The health profession regulatory board shall notify each health care insurer that is required to report pursuant to subsection A of this section of its duty to report.

F. Nothing in this section limits the director of insurance from obtaining any of the information required to be reported under this section.

G. For the purposes of this section "health profession regulatory board" means an agency, board or commission that licenses, certifies or registers a health professional as defined by section 32-3201.

TITLE 20
INSURANCE

CHAPTER 15
UTILIZATION REVIEW

ARTICLE 1
GENERAL PROVISIONS

20-2510. Health care insurers requirements; medical directors

A. A health care insurer that proposes to provide coverage of inpatient hospital and medical benefits, outpatient surgical benefits or any medical, surgical or health care service for residents of this state with utilization review of those benefits shall meet at least one of the following requirements:

1. Have a certificate issued pursuant to this chapter.

2. Be accredited by the utilization review accreditation commission, the national committee for quality assurance or any other nationally recognized accreditation process recognized by the director.

3. Contract with a utilization review agent that has a certificate issued pursuant to this chapter.

4. Contract with a utilization review agent that is accredited by the utilization review accreditation commission, the national committee for quality assurance or any other nationally recognized accreditation process recognized by the director.

5. Provide to the director a signed and notarized statement that the health care insurer has submitted an application for accreditation to the utilization review accreditation commission or the national committee for quality assurance and is awaiting completion of the accreditation review process. On completion of the accreditation review process, the insurer shall provide to the director adequate proof that the insurer has been accredited. If the insurer is denied accreditation, within sixty days after the denial the insurer shall meet at least one of the requirements set forth in paragraph 1, 2, 3 or 4 of this subsection.

B. Except as provided in subsections c and d of this section, any direct or indirect denial of prior authorization of a service requested by a health care provider on the basis of medical necessity by a health care insurer shall be made in writing by a medical director who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17. The written denial shall include an explanation of why the treatment was denied, and the medical director who made the denial shall sign the written denial. The health care insurer shall send a copy of the written denial to the health care provider who requested the treatment. Health care insurers shall maintain copies of all written denials and shall make the copies available to the department for inspection during regular business hours. The medical director is responsible for all direct and indirect denials that are made on the basis of medical necessity. Nothing in this section prohibits a health care insurer from consulting with a licensed physician whose scope of practice may provide the health care insurer with a more thorough review of the medical necessity.

C. For determinations made pursuant to subsection B of this section, a dental service corporation as defined in section 20-822 or a prepaid dental plan organization as defined in section 20-1001 may use as a medical director either:

1. An individual who holds an active unrestricted license to practice dentistry in this state pursuant to title 32, chapter 11.

2. A physician who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17.

D. For determinations made pursuant to subsection B of this section, an optometric service corporation may use as a medical director either:

1. An individual who holds an active unrestricted license to practice optometry in this state pursuant to title 32, chapter 16.

2. A physician who holds an active unrestricted license to practice medicine in this state pursuant to title 32, chapter 13 or 17.

TITLE 28
TRANSPORTATION

CHAPTER 8
MOTOR VEHICLE DRIVER LICENSES

ARTICLE 1
GENERAL PROVISIONS

28-3005. Medical or psychological reports; immunity; definitions

A. A physician, psychologist or certified substance abuse counselor who, in good faith, provides at the written request of a driver license applicant or licensee information to the director concerning a person's medical or psychological condition with respect to operation of a motor vehicle is immune from personal liability with respect to the information provided.

B. Notwithstanding the physician-patient or psychologist-client confidentiality relationship, a physician or psychologist may voluntarily report a patient to the department who, in the opinion of the physician or psychologist, has a medical or psychological condition which could significantly impair the person's ability to safely operate a motor vehicle. If a report is made, the physician or psychologist shall make the report in writing and include the name, address and date of birth of the patient. On receiving the report the department may require the person reported to be examined in the manner provided for in §28-447. No action may be brought against a physician or psychologist for not making a report pursuant to this section. The physician or psychologist submitting the report in good faith is immune from civil or criminal liability that otherwise may result by reason of the physician's or psychologist's actions pursuant to this section. The physician's or psychologist's report is subject to subpoena or order to produce in any action except an action against the physician submitting the report.

C. In this section:

1. "Medical or psychological condition" means a condition which could affect a person's functional ability to safely operate a motor vehicle.

2. "Physician" means a medical doctor, optometrist, chiropractor, naturopath, doctor of osteopathy or doctor of homeopathy licensed to practice in this state or another state or who is employed by the federal government and practicing in this state or their agents.

TITLE 32
PROFESSIONS AND OCCUPATIONS

CHAPTER 18
PHARMACY

ARTICLE 1
BOARD OF PHARMACY

32-1901. Definitions

In this chapter, unless the context otherwise requires:

21. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

73. "Prescription order" means either:

a. An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

b. An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone, or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

TITLE 32
PROFESSIONS AND OCCUPATIONS

CHAPTER 18
PHARMACY

ARTICLE 1
BOARD OF PHARMACY

32-1909. Prescription medication donation program; distribution; immunity; rules

A. Pursuant to board rules and this section, the board shall establish a prescription medication donation program to accept and dispense prescription medications. Prescription medications may be donated at a physician's office, a pharmacy or a health care institution as defined in section 36-401 that elects to participate in the program and that meets the requirements of this section and board rules. Prescription medications shall be accepted or dispensed under the prescription medication donation program only in their original sealed and tamper-evident unit dose packaging. Prescription medication that is packaged in single unit doses may be accepted and dispensed even if the outside packaging is

opened if the single unit dose packaging is undisturbed. The program shall not accept a donation of a prescription medication that either:

1. Expires within six months after the donation.

2. Is deemed adulterated pursuant to section 32-1966.

B. A person, manufacturer or health care institution may donate prescription medication to a physician's office, pharmacy, hospital or health care institution that volunteers to participate in the program and that meets the requirements prescribed by the board.

C. A physician's office, pharmacy, hospital or health care institution that participates in the program shall dispense donated prescription medication:

1. Either directly or through participating governmental or nonprofit private entities.

2. Only pursuant to a prescription order.

3. Only to a recipient who is a resident of this state and who meets the eligibility standards prescribed by the Board by rule.

D. Before dispensing donated prescription medication, the physician's office, pharmacy, hospital or health care institutions participating in the program:

1. Shall comply with all applicable federal laws and the laws of this state dealing with the storage and distribution of dangerous drugs.

2. Shall examine the donated prescription medication to determine that it has not been adulterated and certify that the medication has been stored in compliance with the requirements of the product label.

3. May charge persons receiving donated prescription medication pursuant to this section a handling fee as prescribed by the board by rule to cover the costs of inspection, stocking and dispensing the prescription medication.

E. A pharmaceutical manufacturer is not liable for any claim or injury arising from the transfer of any prescription medication pursuant to this section including liability for failure to transfer or communicate product or consumer information regarding the transferred prescription medication, including the expiration date of the transferred prescription medication.

F. Persons and entities participating in the program as prescribed by this section and board rules are not subject to civil liability or professional disciplinary action.

G. In consultation with the director of the department of health services, the board shall adopt rules prescribing the following:

1. Eligibility criteria for physicians'offices, pharmacies, hospitals and health care institutions to receive and dispense donated prescription medication.

2. Standards and procedures for accepting, storing and dispensing donated prescription medication.

3. Standards and procedures for inspecting donated prescription medication to determine that the original unit dose packaging is sealed and tamper evident and that the donated prescription medication is unadulterated, safe and suitable for dispensing.

4. Eligibility standards, based on economic need, for persons receiving donated prescription medication.

5. A means, such as an identification card, by which persons prove that they are eligible to receive donated prescription medication.

6. A form that each recipient shall sign before the recipient may receive donated prescription medication to confirm that the recipient understands the immunity provisions of the program.

7. A formula to determine the amount of the handling fee that a physician's office, pharmacy, hospital or health care institution may charge recipients.

8. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from individuals.

9. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from individuals.

10. A form each individual shall sign stating that the donor is the owner of the prescription medication and wishes to voluntarily donate the prescription medication to the program.

11. A list of prescription medication, arranged either by category or by individual drug, that the program may accept from a health care institution.

12. A list of prescription medication, arranged either by category or by individual drug, that the program shall not accept from a health care institution. The list shall include a statement as to why the prescription medication is ineligible for donation.

13. Any other standards the board determines are necessary and appropriate.

H. Notwithstanding any other law, a dispenser of donated prescription medication pursuant to this section shall not submit a claim or otherwise seek reimbursement from a public or private third-party payor for the donation and a public or private third-party payor shall not provide reimbursement for donations made pursuant to this section.

ARTICLE 3
REGULATION

32-1968. Dispensing prescription-only drug; prescription orders; renewals; labels; misbranding; dispensing soft contact lenses

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.

2. On a written prescription order.

3. On an oral prescription order that is reduced promptly to writing and filed by the pharmacist.

4. By renewing any written or oral prescription order if a renewal is authorized by the prescriber either in the original prescription order or by an oral order that is reduced promptly to writing and filed by the pharmacist.

B. A prescription order shall not be renewed if it is either:

1. Ordered by the prescriber not to be renewed.

2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, the name, strength and quantity of the drug ordered and directions for its use. A written prescription order shall contain the printed name of the prescriber.

32-1970. Implementing, monitoring and modifying drug therapy and use; conditions; definitions

A. A pharmacist licensed pursuant to this chapter may implement, monitor and modify drug therapy and use only under the following circumstances:

1. The patient's drug therapy and use are pursuant to a diagnosis by a physician licensed pursuant to chapter 13 or 17 of this title in an inpatient setting except for health care provided pursuant to paragraph 4, subdivisions (b) and (d) of this subsection.

2. The pharmacist complies with rules adopted by the state board of pharmacy that have been approved by the Arizona medical board and the board of osteopathic examiners in medicine and surgery.

3. The pharmacist follows the written drug therapy management protocols prescribed by the physician who made the diagnosis.

4. The pharmacist implements, monitors or modifies a person's drug therapy and use only in the following health care institutions:

a. A hospital as defined in section 32-1901.

b. A staff model of a health care services organization.

c. A nursing care institution that has a contractual relationship between a limited service pharmacy or a long-term care consultant pharmacist or has an on-site pharmacy.

d. A qualifying community health center as defined in section 32-1921 that has an on-site pharmacy.

5. The pharmacist includes the approved guidelines and protocols in the patient's chart or file and makes the chart or file available for review by the patient's other health care providers.

B. A licensee who violates this section commits an act of unprofessional conduct.

C. A pharmacist is responsible for the pharmacist's negligent acts that are the result of the pharmacist's change of medication or that relate to patient drug usage pursuant to drug therapy management protocols. This subsection does not limit a physician's liability for negligent acts that are not related to a pharmacist's change of medication pursuant to the protocols.

D. For the purposes of this section:

1. "Implement, monitor and modify" means that a pharmacist may perform specific acts as authorized by a physician pursuant to written guidelines and protocols. This does not include the selection of drug products not prescribed by the physician unless selection of the specific drug product is authorized by the written guidelines and protocols.

2. "Long-term care consultant pharmacist" means a pharmacist providing consulting services to a long-term care facility.

3. "Protocol" means a physician's written order, written standing medical order or other written order of protocol as defined by rules adopted by the Arizona medical board and the board of osteopathic examiners in medicine and surgery and that are patient, physician and pharmacist specific for prescriptions or orders given by the physician authorizing the written protocol.

4. "Staff model of a health care services organization" means an organization that is licensed pursuant to title 20 and that employs its health care providers.

TITLE 32
PROFESSIONS AND OCCUPATIONS

CHAPTER 31
REGULATION OF HEALTH PROFESSIONS

ARTICLE 1
PUBLIC TESTIMONY

32-3108. Grievance process, public testimony

Notwithstanding any law to the contrary, a regulatory entity shall allow a person or a representative of a person who has made a complaint or a person or a representative of a person against whom a complaint has been made attending a board disciplinary meeting open to the public to address the board on that complaint on the agenda by filling out a request form before or at the time of the meeting.

TITLE 32
PROFESSIONS AND OCCUPATIONS

CHAPTER 32
HEALTH PROFESSIONALS

ARTICLE 1
GENERAL PROVISIONS

32-3201. Definitions

In this chapter, unless the context otherwise requires:

1. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.

2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article 6, title 36, chapter 6, article 7 or title 36, chapter 17.

3. "Medical record" has the same meaning prescribed in section 12-2291 but does not include prescription orders.

32-3206. Disciplinary action; information; disclosure.

A. At least ten business days before a disciplinary interview or a hearing, if the board does not hold a disciplinary interview, the health profession regulatory board shall notify the health professional and, at that person's request, the board shall provide the health professional or the health professional's attorney with the information listed in this section. The board shall provide the following information:

1. Any review conducted by an expert or consultant providing an evaluation of or opinion on the allegations.

2. Any records on the patient obtained by the board from other health care providers.

3. The results of any evaluations or tests of the health professional conducted at the board's direction.

4. Any other factual information that the board will use in making its determination.

B. A person who obtains information from the board pursuant to this section may not release it to any other person or entity or use it in any proceeding or action except the disciplinary interview and any administrative proceedings or appeals related to the disciplinary interview. A person who violates this subsection commits an act of unprofessional conduct.

C. A board may charge the health professional or the health professional's attorney for the cost of providing the information received up to the fee for making a copy of each page as prescribed by section 12-284, subsection a.

32-3207. Health professionals disease hazard; testing; petition; definition

A. A health professional may petition the court to allow for the testing of a patient or deceased person if there is probable cause to believe that in the course of that health professional's practice there was a significant exposure.

B. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that significant exposure occurred between the patient or deceased person and the health professional, the court shall order that either:

1. The person who transferred blood or bodily fluids onto the health professional provide two specimens of blood for testing.

2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

C. On written notice from the employer of the health professional, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency or entity for testing only after the court issues its order pursuant to subsection B. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

D. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, the health professional named in the petition and the health professional's employer. If the person is incarcerated or detained, the notice shall also be provided to the chief medical officer of the facility in which the person is incarcerated or detained.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or bodily fluid, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in the transmission of blood borne or bodily fluid carried diseases.

32-3208. Criminal charges; mandatory reporting requirements; civil penalty

A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.

C. On receipt of this information the regulatory board may conduct an investigation.

D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.

E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.

F. On request a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

32-3209. Release of information; fees

A. On request of any person, a health professional regulatory board must provide the following information to that person:

1. A copy of the minutes of any specified board meeting.

2. A copy of a board action concerning a person regulated by the board.

3. A copy of the final adjudication of a complaint against a person regulated by the board. For the purposes of this paragraph, final adjudication of a complaint does not include any complaint that was dismissed or terminated more than five years before the request was submitted.

4. The name and primary practice address of a person regulated by the board.

B. A health regulatory board may charge a fee for copies of any of the information in subsection A.

32-3210. Medical records; protocol; unprofessional conduct; corrective action; exemption*[1]

A. A health professional must prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. At a minimum the protocol must specify:

1. If the health professional terminates or sells the health professional's practice and the patient's medical records will not remain in the same physical location, the procedure by which the health professional shall notify each patient in a timely manner before the health professional terminates or sells the health professional's practice in order to inform the patient regarding the future location of the patient's medical records and how the patient can access those records.

2. The procedure by which the health professional may dispose of unclaimed medical records after a specified period of time and after the health professional has made good faith efforts to contact the patient.

3. How the health professional shall timely respond to requests from patients for copies of their medical records or to access their medical records.

B. The protocol prescribed in subsection A of this section must comply with the relevant requirements of title 12, chapter 13, article 7.1 regarding medical records.

C. A health professional shall indicate compliance with the requirements of this section on the health professional's application for relicensure in a manner prescribed by the health professional's regulatory board.

D. A health professional who does not comply with this section commits an act of unprofessional conduct.

[1] There are three sections numbered 32-3201; two of these will be renumbered and moved to different sections at a later date.

E. In addition to taking disciplinary action against a health professional who does not comply with this section, the health professional's regulatory board may take corrective action regarding the proper storage, transfer and access of the medical records of the health professional's patients. For the purposes of this subsection, corrective action does not include taking possession or management of the medical records.

F. For the purposes of this section, health professional does not include a veterinarian.

G. This section does not apply to a health professional who is employed by a health care institution as defined in section 36-401 that is responsible for the maintenance of the medical records.

32-3210. Billing for laboratory costs; unprofessional conduct; definition

A. It is an act of unprofessional conduct for a health professional to request a laboratory that provides anatomic pathology services at the health professional's orders to submit a bill for anatomic pathology services, whether occurring in this state or elsewhere, to any person or entity other than the following:

1. The patient.

2. The responsible insurer or other third-party payor.

3. The health care institution.

4. A referring laboratory, excluding the laboratory of the health professional who ordered the test.

5. A governmental agency or the agency's public or private agent, agency or organization that is acting on behalf of the recipient of the services.

B. For the purposes of this section, "anatomic pathology services' includes cytology services, molecular pathology services, hematopathology, histopathology, surgical pathology, and blood banking services performed by a pathologist. Anatomic pathology services does not include the collection, packaging and transportation of the specimen.

32-3210. Umbilical cord blood donations; information; definition

A. Beginning January 1, 2007, if a health professional has a patient who is in her second trimester of pregnancy, the health professional must inform the patient of the following options relating to stem cells that are contained in the umbilical cord blood after the delivery of her child.

1. Discard the stem cells.

2. Donate the stem cells to a public umbilical cord blood bank.

3. Store the stem cells in a family umbilical cord blood bank for use by the immediate and extended family members.

4. Store the stem cells for family use through a family or sibling donor banking program that provides free collection, processing and storage where there is a medical need.

B. If the department of health services has issued a pamphlet on this subject, the health professional must also provide the patient with this pamphlet.

C. A health professional meets the notification requirements of this section by providing this information verbally or in writing or by providing the woman with a publication prepared by the department of health services.

D. This section does not impose an obligation on a health professional to inform a pregnant woman regarding the option of umbilical cord blood collection if that information conflicts with the health professional's bona fide religious beliefs.

E. A person who acts in good faith pursuant to this section is not subject to civil or criminal liability or professional discipline for those acts.

F. For the purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

TITLE 32
PROFESSIONS AND OCCUPATIONS

CHAPTER 37
CHILD SUPPORT OBLIGATIONS

ARTICLE 1
GENERAL PROVISIONS

32-3701. Child support arrearages; suspension of license or certificate; applicability; definition

A. A licensing board or agency shall suspend a license within thirty days after receiving a certificate of noncompliance from the court pursuant to section 25-518. The licensing board or agency shall not lift the suspension until it receives a certificate of compliance from the court.

B. The licensing board or agency shall notify the department of economic security within thirty days in writing, or by any other means prescribed by the department, of all license suspensions pursuant to this section. The information shall include the person's name, address, date of birth and social security number.

C. This section applies to support obligations ordered by any state, territory or district of the United States.

D. For purposes of this section, "license" means any license, certificate, registration, permit or other authorization that:

1. Is issued by an agency or regulatory board.

2. Is subject before expiration to suspension, revocation, forfeiture or termination by the issuing board or agency.

3. A person must obtain to practice or engage in a particular business, occupation or profession.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 1
STATE AND LOCAL BOARDS AND DEPARTMENTS OF HEALTH

ARTICLE 1
DEPARTMENT OF HEALTH SERVICES

36-112. Umbilical cord donations; information pamphlet; distribution; health care institution responsibilities; definition

A. On or before January 1, 2007, the department of health services shall prepare a pamphlet that includes information regarding the following:

1. The medical process involved in the collection of umbilical cord blood.

2. The medical risks of umbilical cord blood collection of umbilical cord blood.

3. The current and potential future medical uses, risks and benefits of umbilical cord blood collection to a mother, her newborn child and her biological family.

4. The current and potential future medical uses, risks and benefits of umbilical cord blood collection to persons who are not biologically related to a mother and her newborn child.

5. Any costs that may be incurred by a pregnant woman who chooses to make an umbilical cord blood donation.

6. Options for ownership and future use of the donated material.

7. The average cost of public and private umbilical cord blood banking.

B. The department shall update the pamphlet prepared pursuant to this section as necessary.

C. The department shall distribute the pamphlet free of charge to physicians and health care institutions on request and shall make the pamphlet available on its web site.

D. The department may accept gifts grants and donations for the purposes of this section.

E. A health care institution licensed pursuant to Chapter 4 of this title that treats a pregnant woman during the delivery of her child shall permit her to arrange for an umbilical cord blood donation if she has made this request unless, in the professional judgment of a health care provider, the donation would threaten the health of the mother or the newborn child.

F. This section does not impose an obligation on a health care provider to permit an umbilical cord blood collection if the collection conflicts with the provider's bona fide religious beliefs and the provider makes this fact known to the woman as soon as reasonably feasible.

G. A health care institution that acts in good faith pursuant to this section is not subject to civil or criminal liability or regulatory discipline for those acts.

H. For the purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

CHAPTER 3
RECORDS AND PUBLIC HEALTH STATISTICS

ARTICLE 2
DEATH REGISTRATION, PROCEDURES AND CERTIFICATES AND BIRTH REGISTRATION CERTIFICATE REQUIREMENTS

36-325. Death certificate registration; moving human remains; definition

G. If a person under the current care of a physician or nurse practitioner for a potentially fatal illness dies of that illness, the physician or nurse practitioner, if available, shall complete and sign the medical certification of death on a death certificate within seventy-two hours. If the physician or nurse practitioner is not available, the medical examiner shall complete and sign the medical certification of death on a death certificate.

H. If a person dies in a hospital, nursing care institution or hospice inpatient facility, the following person shall complete and sign the medical certification of death within seventy-two hours of the death:

1. If the person is under the care of a nurse practitioner, the nurse practitioner or attending physician, if available.

2. If the person is not under the care of a nurse practitioner, the attending physician, if available.

3. If the nurse practitioner or attending physician is not available, the medical examiner.

N. For the purposes of this section, "medical certification" means confirmation of a cause of death.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 4
HEALTH CARE INSTITUTIONS

ARTICLE 4
HEALTH CARE UTILIZATION REVIEW

36-441. Health care utilization committees; immunity; exception; definition

A. A person who without malice makes a decision or recommendation as a member, agent or employee of a health care utilization committee or who furnishes any records, information or assistance to that committee at its request is not subject to liability for civil damages or any legal action in

consequence of that action. In any such action, the absence of malice is presumed. This presumption may be overcome only by a showing of clear and convincing evidence. This section does not relieve a person of liability arising from treatment of a patient. For the purposes of this subsection, "malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

B. All proceedings, records and materials prepared in connection with the activities of a health care utilization committee are confidential and are not subject to discovery except:

1. In proceedings before the Arizona medical board or the board of osteopathic examiners.

2. In actions by an individual health care provider against the health care institution or outpatient surgical center arising from the discipline or other adverse action taken against the individual as a result of utilization review.

C. No member of a utilization review committee, person engaged in assisting the committee or person furnishing information to the committee may be subpoenaed to testify in a judicial or quasi-judicial proceeding if the subpoena is based solely on the utilization review committee's activities.

D. This section does not:

1. Affect a patient's claim to privilege or privacy.

2. Prevent the subpoena of a patient's medical records if they are otherwise subject to discovery.

3. Restrict the powers and duties of the director pursuant to this chapter with respect to records and information that are not subject to this section.

E. In a legal action brought against a hospital or outpatient surgical center for failure to adequately perform utilization review, representatives of the facility may testify as to whether there was utilization review with respect to the subject matter of the litigation.

F. All proceedings, records and materials prepared in connection with utilization review are confidential and inadmissible as evidence in a court proceeding.

G. For the purposes of this section, "health care utilization committee" means a committee established by a hospital or an outpatient surgical center to review or evaluate the utilization, appropriateness and necessity of health care services provided by that facility.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 4
HEALTH CARE INSTITUTIONS

ARTICLE 5
REVIEW OF CERTAIN HEALTH CARE PRACTICES

36-445. Review of certain medical practices

The governing body of each licensed hospital or outpatient surgical center as defined in section 36-401 shall require that physicians admitted to practice in the hospital or center organize into committees or other organizational structures to review the professional practices within the hospital or center for the purposes of reducing morbidity and mortality and for the improvement of the care of patients provided in the institution. Such review shall include the nature, quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital or center. Such review need not identify the patient or doctor by name but may use a case number or some other such designation.

36-445.01. Confidentiality of information; conditions of disclosure

A. All proceedings, records and materials prepared in connection with the reviews provided for in section 36-445, including all peer reviews of individual health care providers practicing in and applying to practice in hospitals or outpatient surgical centers and the records of such reviews, are confidential and are not subject to discovery except in proceedings before the Arizona medical board or the board of osteopathic examiners, or in actions by an individual health care provider against a hospital or center or its medical staff arising from discipline of such individual health care provider or refusal, termination, suspension or limitation of the health care provider’s privileges. No member of a committee established under the provisions of section 36-445 or officer or other member of a hospital's or center's medical, administrative or nursing staff engaged in assisting the hospital or center to carry out functions in accordance with that section or any person furnishing information to a committee performing peer review may be subpoenaed to testify in any judicial or quasi-judicial proceeding if the subpoena is based solely on those activities.

B. This article does not affect any patient's claim to privilege or privacy or to prevent the subpoena of a patient's medical records if they are otherwise subject to discovery or to restrict the powers and duties of the director pursuant to this chapter, with respect to records and information that are not subject to this article. In any legal action brought against a hospital or outpatient surgical center licensed pursuant to this chapter claiming negligence for failure to adequately do peer review, representatives of the hospital or center are permitted to testify as to whether there was peer review as to the subject matter being litigated. The contents and records of the peer review proceedings are fully confidential and inadmissible as evidence in any court of law.

36-445.02. Immunity relating to review of medical practices

A. Any individual who, in connection with duties or functions of a hospital or outpatient surgical center pursuant to section 36-445, makes a decision or recommendation as a member, agent or employee of the medical or administrative staff of a hospital or center or of one of its review committees or related organizations or who furnishes any records, information, or assistance to such medical staff or review committee or related organization is not subject to liability for civil damages or legal action in consequence thereof.

B. No hospital or outpatient surgical center and no individual involved in carrying out review or disciplinary duties or functions of a hospital or center pursuant to section 36-445 may be liable in damages to any person who is denied the privilege to practice in a hospital or center or whose privileges are suspended, limited or revoked. The only legal action which may be maintained by a licensed health care provider based on the performance or nonperformance of such duties and functions is an action for injunctive relief seeking to correct an erroneous decision or procedure. The review shall be limited to a review of the record. If the record shows that the denial, revocation, limitation or suspension of membership or privileges is supported by substantial evidence, no injunction shall issue. In such actions, the prevailing party shall be awarded taxable costs, but no other monetary relief shall be awarded.

C. Nothing in this section relieves any individual, hospital or outpatient surgical center from liability arising from treatment of a patient.

36-445.03. Limitation of publication; identity of patient confidential

Any publication of the results of a review for the purposes provided in sections 36-445 and 36-445.01 shall be made only for the purposes provided in those sections and shall keep confidential the identity of any patient whose condition, care or treatment was a part thereof.

36.445.04. Freestanding urgent care center incident reporting; confidentiality requirement

If a patient’s death occurs at a freestanding urgent care center, the center shall report the death to the department not later than the next department work day. The department shall not release personally identifiable patient or physician information.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 4.1
CLINICAL LABORATORIES

ARTICLE 1
LABORATORY LAWS

36-451. Definitions

4. "Clinical laboratory" or "laboratory" means any facility, agency, institution, medical office, health care institution, building, or place which provides through its ownership or operation facilities for the microbiological, serological, chemical, immunohematological, hematological, cytologic, histologic, radiobioassay, cytogenetic, histocompatibility, pathological, toxicological or other examination of

materials derived from the human body for the purpose of providing information for the diagnosis, prevention and treatment of a disease or an impairment or the assessment of human health conditions or to determine the presence, absence or concentration of various substances in the body. Clinical laboratory does not include law enforcement crime laboratories.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 4.1
CLINICAL LABORATORIES

ARTICLE 2
LICENSURE AND REGULATION OF CLINICAL LABORATORIES

36-470. Examination of specimens; written requests; reports of results; retention of test records

A. Except as otherwise provided, a clinical laboratory shall examine specimens at the authorization of any person licensed pursuant to title 32, chapter 7, 8, 13, 14, 17 or 29 or title 32, chapter 11, article 2, a person licensed to practice medicine or surgery in another state, or a person authorized by law or department rules.

B. The result of a test shall be reported to the person who authorized it. A report of results issued from a clinical laboratory shall provide information required by the department by rule. No clinical interpretation, diagnosis or prognosis or suggested treatment other than normal values shall appear on the laboratory report form, except that a report made by a physician licensed to practice medicine and surgery in this state or another state may include this information.

C. All specimens accepted by a laboratory for specified tests shall be tested on its premises, except that specimens, other than those for proficiency testing purposes, may be forwarded for examination to another laboratory licensed under this article or exempted by section 36-461, paragraph 1.

D. When the laboratory performing the examination is other than the laboratory accepting the specimen, the report submitted shall include information required by the department by rule.

E. Records involving laboratory services and copies of reports of laboratory tests shall be kept in a manner as prescribed by the department by rule.

F. A person authorized to request clinical laboratory examinations pursuant to this section may direct that a clinical laboratory examine a person's specimens at that person's request if the authorization is given pursuant to department rules and specifies:

1. The name of the person authorized to request an examination and to receive the results of that examination.

2. The type of examinations to be performed by the laboratory.

3. The total number of examinations the authorized person may request.

4. The beginning and expiration dates of the authorization.

5. The identification of the person giving the authorization.

G. The laboratory shall report test results ordered pursuant to subsection F to the person who authorized the test and to the person who requested it.

36-471. Persons authorized to collect human specimens or blood

A. Only a person authorized by law shall collect human bodily materials. Technical personnel of a laboratory may collect blood, remove stomach contents and collect material for smears and cultures or inject substances under the direction or upon the written request of a licensed physician for examination by a licensed laboratory.

B. Emergency paramedics, intermediate emergency medical technicians or personnel who have written approval of the director may collect blood and collect material for smears and cultures under the direction or upon the written request of a licensed physician.

36-472. Rebates, fee-splitting and solicitation of referrals prohibited

A. The owner or director of a laboratory shall not personally or through an agent, solicit the referral of specimens to his or any other laboratory in a manner which offers or implies an offer of rebates to persons submitting specimens or other fee-splitting inducements or participate in any fee-splitting arrangement. This applies to contents of fee schedules, billing methods or personal solicitation. The contractual provision of laboratory services for a fixed fee independent of the number of specimens submitted for such services is declared to be a violation of this section.

B. The bill to the patient shall specify the actual charge by the reference laboratory together with the reasonable specimen collection charge by the referring laboratory or physician.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 5
MENTAL HEALTH SERVICES

ARTICLE 2
PATIENT'S CIVIL AND LEGAL RIGHTS

36-517.02. Limitation of liability; exception; discharge of duty; immunity for disclosure

A. There shall be no cause of action against a mental health provider nor shall legal liability be imposed for breaching a duty to prevent harm to a person caused by a patient, unless both of the following occur:

1. The patient has communicated to the mental health provider an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such threat.

2. The mental health provider fails to take reasonable precautions.

B. Any duty owed by a mental health provider to take reasonable precautions to prevent harm threatened by a patient is discharged by all of the following:

1. Communicating when possible the threat to all identifiable victims.

2. Notifying a law enforcement agency in the vicinity where the patient or any potential victim resides.

3. Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate.

4. Taking any other precautions that a reasonable and prudent mental health provider would take under the circumstances.

C. Whenever a patient has explicitly threatened to cause serious harm to a person or whenever a mental health provider reasonably concludes that a patient is likely to do so, and the mental health provider, for the purpose of reducing the risk of harm, discloses a confidential communication made by or relating to the patient, the mental health provider shall be immune from liability resulting from such disclosure.

D. This section shall not limit and shall be in addition to any other statutory immunities from liability of mental health providers or mental health treatment agencies as otherwise provided by law.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 6
PUBLIC HEALTH CONTROL

ARTICLE 4
COMMUNICABLE DISEASE INFORMATION

36-661. Definitions

In this article, unless the context otherwise requires:

1. "Acquired immune deficiency syndrome" has the same meaning as defined by the centers for disease control of the United States public health service.

2. "Capacity to consent" means a person's ability, determined without regard to the person's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure and to make an informed decision concerning that service, treatment or procedure.

3. "Child" means an unemancipated person under eighteen years of age.

4. "Communicable disease" means a contagious, epidemic or infectious disease required to be reported to the local board of health or the department pursuant to chapter 1 of this title and this chapter.

5. " Communicable disease related information" means information regarding a communicable disease in the possession of a person who provides health services or who obtains the information pursuant to the release of confidential communicable disease related information.

6. "Contact" means a spouse or sex partner of a protected person, a person who has shared hypodermic needles or syringes with a protected person or a person otherwise exposed to a protected person with a communicable disease in a manner that poses an epidemiologically significant risk of transmission of that disease.

7. "Department" means the department of health services.

8. "Director" means the director of the department of health services.

9. "Good Samaritan" means a person who renders emergency care or assistance in good faith and without compensation at the scene of any accident, fire or other life-threatening emergency and who believes that a significant exposure risk occurred while the person rendered care or assistance.

10. “Health care decision maker” has the same meaning prescribed in section 12-2801.

11. "Health care provider" means a physician, nurse or other person involved in providing health services.

12. "Health facility" means a health care institution as defined in §36-401, a blood bank, blood center, milk bank, sperm bank, organ or tissue bank or clinical laboratory or a health care services organization holding a certificate of authority pursuant to §20-1054.

13. "Health service" means public or private care, treatment, clinical laboratory tests, counseling or educational service for adults or children and acute, chronic, custodial, residential, outpatient, home or other health care or activities related to the detection, reporting, prevention and control of communicable or preventable diseases.

14. "HIV" means the human immunodeficiency virus.

15. "HIV infection" means infection with the human immunodeficiency virus or a related virus identified as a probable causative agent of acquired immune deficiency syndrome.

16. "HIV-related illness" means an illness that may result from or be associated with HIV infection.

17. “HIV-related information” means information concerning whether a person has had an HIV-related test or has HIV infection, HIV-related illness or acquired immune deficiency syndrome and includes information that identifies or reasonably permits identification of that person or the person’s contacts.

18. "HIV-related test" means a laboratory test or series of tests for the virus, components of the virus or antibodies to the virus thought to indicate the presence of HIV infection.

19. "Protected person" means a person who takes an HIV-related test or who has been diagnosed as having HIV infection, acquired immune deficiency syndrome, HIV-related illness or another communicable disease.

20. "Significant exposure risk" means contact with another person in a manner that, if the other person has a communicable disease, poses an epidemiologically significant risk of transmission of that disease as determined by the department.

36-662. Access to records

In conducting an investigation of a reportable communicable disease the department of health services and local health departments may inspect and copy medical or laboratory records in the possession of or maintained by a health care provider or health care facility which are related to the diagnosis, treatment and control of the specific communicable disease case reported. Requests for records shall be made in writing by the appropriate officer of the department of health services or local health department and shall specify the communicable disease case and the patient under investigation.

36-663. HIV-related testing; restrictions; exceptions

A. Except as otherwise specifically authorized or required by this state or by federal law, no person may order the performance of an HIV-related test within a hospital licensed pursuant to chapter 4, article 2 of this title without first receiving the specific written informed consent of the subject of the test who has capacity to consent or, if the subject lacks capacity to consent, of the subject's health care decision maker. Before ordering the performance of an HIV-related test as a part of a patient examination or consultation conducted outside a hospital licensed pursuant to chapter 4, article 2 of this title, a health care provider licensed pursuant to title 32, chapter 13, 17 or 29, a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25 shall obtain specific oral or written informed consent of the subject of the test who has capacity to consent or, if the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for that person. Other health care providers who are licensed pursuant to title 32 and who are allowed to provide HIV-related tests within their scope of practice shall obtain specific written informed consent. Written consent shall be in a form as prescribed by the department except for entities complying with the form prescribed by §20-448.01. Oral consent shall be documented in the medical record of the subject of the test. If the test is performed on an anonymous basis the consent shall be oral and no record shall be made containing the subject's name.

B. In order to obtain specific oral or written informed consent the health care provider licensed pursuant to title 32 shall provide the patient with an explanation of the following:

1. The test including its purpose, the meaning of its results and the benefits of early diagnosis and medical intervention.

2. The nature of acquired immune deficiency syndrome and HIV-related illness and information about behaviors known to pose risks for transmitting the human immunodeficiency virus.

3. The confidentiality protections afforded HIV-related information.

4. That an HIV-related test is voluntary and can be performed anonymously at a public health agency.

5. That a positive test result must be reported to a public health agency as required by law.

6. That the consent for the test may be withdrawn at any time before drawing the sample for the test and that the withdrawal of consent may be given orally if the consent was given orally or shall be in writing if the consent was given in writing.

C. The director shall provide in writing to all health care providers a form that contains the list of informed consent explanations in subsection B of this section. If the health care provider chooses to use oral consent, the provider shall sign and return the form to the director.

D. This section does not apply to the performance of an HIV-related test:

1. By a health care provider or health facility in relation to the procuring, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, milk or other body fluids, for use in medical research or therapy or for transplantation to other persons.

2. For the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

3. On a deceased person, if the test is conducted in order to determine the cause of death or for epidemiologic or public health purposes.

4. In the course of providing necessary emergency medical treatment to a patient who lacks capacity to consent to HIV-related testing and for whom no person authorized pursuant to law to consent to health care for that person can be identified on a timely basis if the testing is necessary for the diagnosis and treatment of the emergency condition. The attending physician shall document the existence of an emergency medical condition, the necessity of the HIV-related testing to diagnose and treat the emergency condition and the patient's lack of capacity.

5. On a patient who lacks capacity to consent and for whom no person authorized pursuant to law to consent to health care for that person can be identified on a timely basis if the HIV-related testing is directly related to and necessary for the diagnosis and treatment of the person's medical condition. HIV-related testing shall be performed under these circumstances only on written certification by the attending physician and a consulting physician that the HIV-related testing is directly related to and necessary for the diagnosis and treatment of the patient's medical condition.

36-664. Confidentiality; exceptions

A. A person who obtains communicable disease related information in the course of providing a health service or obtains that information from a health care provider pursuant to an authorization shall not disclose or be compelled to disclose that information except to the following:

1. The protected person or, if the protected person lacks capacity to consent, the protected person’s health care decision maker.

2. The department or a local health department for purposes of notifying a good samaritan pursuant to subsection E of this section.

3. An agent or employee of a health facility or health care provider to provide health services to the protected person or the protected person’s child or for billing or reimbursement for health services.

4. A health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, milk or other body fluids, for use in medical education, research or therapy or for transplantation to another person.

5. A health facility or health care provider, or an organization, committee or individual designated by the health facility or health care provider, that is engaged in the review of professional practices, including the review of the quality, utilization or necessity of medical care, or an accreditation or

oversight review organization responsible for the review of professional practices at a health facility or by a health care provider.

6. A private entity that accredits the health facility or health care provider and with whom the health facility or health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

7. A federal, state, county or local health officer if disclosure is mandated by federal or state law.

8. A federal, state or local government agency authorized by law to receive the information. The agency is authorized to redisclose the information only pursuant to this article or as otherwise permitted by law.

9. An authorized employee or agent of a federal, state or local government agency that supervises or monitors the health care provider or health facility or administers the program under which the health service is provided. An authorized employee or agent includes only an employee or agent who, in the ordinary course of business of the government agency, has access to records relating to the care or treatment of the protected person.

10. A person, health care provider or health facility to which disclosure is ordered by a court or administrative body pursuant to §36-665.

11. The industrial commission or parties to an industrial commission claim pursuant to the provisions of §23-908, subsection C and 23-1043.02.

12. Insurance entities pursuant to §20-448.01 and third party payor's or the payor's contractors.

13. Any person or entity as authorized by the patient or the patient's health care decision maker.

14. A person or entity as required by federal law.

15. The legal representative of the entity holding the information in order to secure legal advice.

16. A person or entity for research only if the research is conducted pursuant to applicable federal or state laws and regulations governing research.

B. At the request of the department of economic security in conjunction with the placement of children in foster care or for adoption or court-ordered placement, a health care provider shall disclose communicable disease information, including HIV-related information, to the department of economic security.

C. A state, county or local health department or officer may disclose communicable disease related information if the disclosure is any of the following:

1. Specifically authorized or required by federal or state law.

2. Made pursuant to an authorization signed by the protected person or the protected person's health care decision maker.

3. Made to a contact of the protected person. The disclosure shall be made without identifying the protected person.

4. For the purposes of research as authorized by state and federal law.

D. The director may authorize the release of information that identifies the protected person to the national center for health statistics of the United States public health service for the purposes of conducting a search of the national death index.

E. The department or a local health department shall disclose communicable disease related information to a good samaritan who submits a request to the department or the local health department. The request shall document the occurrence of the accident, fire or other life-threatening emergency and shall include information regarding the nature of the significant exposure risk. The department shall adopt rules that prescribe standards of significant exposure risk based on the best available medical evidence. The department shall adopt rules that establish procedures for processing requests from good samaritans pursuant to this subsection. The rules shall provide that the disclosure to the good samaritan shall not reveal the protected person's name and shall be accompanied by a written statement that warns the good samaritan that the confidentiality of the information is protected by state law.

F. An authorization to release communicable disease related information shall be signed by the protected person or, if the protected person lacks capacity to consent, the protected person's health care decision maker. An authorization shall be dated and shall specify to whom disclosure is authorized, the purpose for disclosure and the time period during which the release is effective. A general authorization for the release of medical or other information, including communicable disease related information, is not an authorization for the release of HIV-related information unless the authorization specifically indicates its purpose as an authorization for the release of confidential HIV-related information and complies with the requirements of this section.

G. A person to whom communicable disease related information is disclosed pursuant to this section shall not disclose the information to another person except as authorized by this section. This subsection does not apply to the protected person or a protected person's health care decision maker.

H. If a disclosure of communicable disease related information is made pursuant to an authorization under subsection F of this section, the disclosure shall be accompanied by a statement in writing that warns that the information is from confidential records protected by state law and that prohibits further disclosure of the information without the specific written authorization of the person to whom it pertains or as otherwise permitted by law.

I. This section does not prohibit the listing of communicable disease related information, including acquired immune deficiency syndrome, HIV-related illness or HIV infection, in a certificate of death, autopsy report or other related document that is prepared pursuant to law to document the cause of death or that is prepared to release a body to a funeral director. This section does not modify a law or rule relating to access to death certificates, autopsy reports or other related documents.

J. If a person in possession of HIV-related information reasonably believes that an identifiable third party is at risk of HIV infection that person may report that risk to the department. The report shall be in writing and include the name and address of the identifiable third party and the name and address of the person making the report. The department shall contact the person at risk pursuant to rules adopted by the department. The department employee making the initial contact shall have expertise in counseling persons who have been exposed to or tested positive for HIV or acquired immune deficiency syndrome.

K. Except as otherwise provided pursuant to this article or subject to an order or search warrant issued pursuant to §36-665, a person who receives HIV-related information in the course of providing a health service or pursuant to a release of HIV-related information shall not disclose that information to

another person or legal entity or be compelled by subpoena, order, search warrant or other judicial process to disclose that information to another person or legal entity.

L. This section or and sections 36-663, 36-666, 36-667 and 36-668 do not apply to persons or entities subject to regulation under title 20.

36-665. Order for disclosure of confidential communicable disease related information

A. Notwithstanding any other law, no court or administrative body may issue an order for the disclosure of or a search warrant for communicable disease related information, except as provided by this section. An administrative body includes any administrative law judge or hearing officer presiding over matters relating to the administrative body.

B. An order for disclosure of or a search warrant for communicable disease related information may be issued on an application showing any one of the following:

1. A compelling need for disclosure of the information for the adjudication of a criminal, civil or administrative proceeding.

2. A clear and imminent danger to a person whose life or health may unknowingly be at significant risk as a result of contact with the person to whom the information pertains.

3. If the application is filed by a state, county or local health officer, a clear and imminent danger to the public health.

4. That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this article.

5. A clear and imminent danger to a person or to public health or a compelling need requiring disclosure of the communicable disease related information.

C. On receiving an application pursuant to this section, the court or administrative body shall enter an order directing that the file be sealed and not made available to any person, except to the extent necessary to conduct a proceeding in connection with the determination of whether to grant or deny the application, including an appeal. The court or administrative body shall also order that all subsequent proceedings in connection with the application be conducted in camera and, if appropriate to prevent the unauthorized disclosure of communicable disease related information, that pleadings, papers, affidavits, judgments, orders, briefs and memoranda of law that are part of the application or the decision not state the name of the person concerning whom communicable disease related information is sought.

D. The person concerning whom the information is sought and a person holding records from whom disclosure is sought shall be given adequate notice of the application in a manner which does not disclose to any other person the identity of the person and may file a written response to the application or appear in person for the limited purpose of providing evidence on the criteria for the issuance of an order pursuant to this section.

E. The court or administrative body may grant an order without notice and an opportunity to be heard if an ex parte application by a public health officer shows that a clear and imminent danger to a person whose life or health may unknowingly be at risk requires an immediate order and that notice to the individual about whom the information is sought is not reasonable under the circumstances.

F. Service of a subpoena is not required for actions brought pursuant to subsections D and E.

G. In assessing compelling need and clear and imminent danger, the court or administrative body shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record which supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected person and the public interest which may be disserved by disclosure which deters future testing or treatment or which may lead to discrimination.

H. An order authorizing disclosure of or a search warrant for communicable disease related information shall:

1. Limit disclosure to that information which is necessary to fulfill the purpose for which the order is granted.

2. Limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit redisclosure by persons to any other persons, whether or not they are parties to the action.

3. To the extent possible consistent with this section, conform to the provisions of this article.

4. Include other measures as deemed necessary to limit disclosures not authorized by the order.

I. Notwithstanding any other law, a court or administrative body shall not order the department, a county health department or a local health department to release HIV-related information in its possession.

36-666. Violation; classification; immunity

A. A person who knowingly does the following is guilty of a class 3 misdemeanor:

1. Performs, or permits or procures the performance of, an HIV-related test in violation of this article.

2. Discloses, compels another person to disclose or procures the disclosure of communicable disease related information in violation of this article.

B. A person, health facility or health care provider disclosing communicable disease related information pursuant to or required by this article is immune from civil or criminal liability if the person, health care facility or health care provider acted in good faith and without malice.

C. A health facility or health care provider, including a physician, the physician's employer or the health care facility or health care provider with which the physician is associated, is immune from civil or criminal liability for failing to disclose communicable disease related information to a contact or a person authorized pursuant to law to consent to health care for a protected person if the health facility or health care provider acted in good faith and without malice.

D. For the purposes of this section, good faith and the absence of malice are presumed unless the presumption is overcome by a demonstration of clear and convincing evidence to the contrary.

36-667. Civil penalty

A. The department may impose a civil penalty of not more than five thousand dollars if a person does the following in violation of this article:

1. Performs, or permits or procures the performance of, an HIV-related test in violation of this article.

2. Discloses, compels another person to disclose or procures the disclosure of communicable disease related information in violation of this article.

B. The director shall deposit, pursuant to sections 35-146 and 35-147, all monies collected pursuant to this section in the state general fund.

36-668. Private right of action

A protected person may bring an action in superior court for legal and equitable relief on his own behalf against a person who violates this article.

36-669. Human immunodeficiency testing of prisoners

The state department of corrections in consultation with the department of health services may require that a prisoner be tested for the human immunodeficiency virus if the department of corrections has reasonable grounds to believe that the person is infected with the human immunodeficiency virus and is a health threat to others.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 6
PUBLIC HEALTH CONTROL

ARTICLE 5
Maternal and Child Welfare

36-694. Report of blood tests; newborn screening program; fee; definitions

A. When a birth or stillbirth is reported, the attending physician or other person required to make a report of the birth shall state on the certificate whether a blood test for syphilis was made on a specimen of blood taken from the woman who bore the child or from the umbilical cord at delivery, as required by section 36-693, and the approximate date when the specimen was taken.

B. When a birth is reported the attending physician or person who is required to make a report on the birth shall order or cause to be ordered tests for certain congenital disorders. The results of the tests for these disorders must be reported to the department of health services. The department of health services shall specify in rule the disorders, the process for collecting and submitting specimens and reporting requirements for test results.

C. When a hearing test is performed on a newborn, the initial hearing test results and any subsequent hearing test results must be reported to the department of health services as prescribed by department rules.

D. The director of the department of health services shall establish a newborn screening program within the department to assure that the testing for congenital disorders and the reporting of hearing test results required by this section are conducted in an effective and efficient manner. The newborn screening program shall include an education program for the general public, the medical community, parents and professional groups.

E. The newborn screening program shall establish and maintain a central database of newborns and infants who are tested for hearing loss and congenital disorders that include information required in rule.

F. If tests conducted pursuant to this section indicate that a newborn or infant may have a hearing loss or a congenital disorder, the screening program shall provide follow-up services to encourage the child's family to access evaluation services, specialty care and early intervention services.

G. The director shall establish a committee to provide recommendations and advice to the department on at least an annual basis regarding tests that the committee believes should be included in the newborn screening program. Any recommendation by the committee that a test be added to the newborn screening program shall be accompanied by a cost-benefit analysis.

H. The committee shall include the following members who are appointed by the director and who serve without compensation or reimbursement of expenses at the pleasure of the director:

1. Seven physicians who are licensed pursuant to title 32, chapter 13 or 17 and who represent the medical specialties of endocrinology, pediatrics, neonatology, family practice, otology and obstetrics.

2. A neonatal nurse practitioner who is licensed and certified pursuant to title 32, chapter 15.

3. An audiologist who is licensed pursuant to chapter 17, article 4 of this title.

4. A representative of an agency that provides services under part C of the individuals with disabilities education act.

5. At least one parent of a child with a hearing loss or a congenital disorder.

6. A representative from the insurance industry familiar with health care reimbursement issues.

7. The director of the Arizona health care cost containment system or the director's designee.

8. A representative of the hospital or health care industry.

I. The department of health services shall prepare and issue a solicitation including a proposed contract format, at least once every four years, to contract for the testing of congenital disorders. The procurement shall comply with title 41, chapter 23, with the following exceptions:

1. The contracts for these services are exempt from section 41-2511, subsection B.

2. Proposals may be accepted from hospitals, clinical laboratories licensed pursuant to chapter 4.1, article 2, of this title, the state laboratory described in section 36-251, and any other qualified public or private persons.

3. The department of health services may negotiate price reductions in eligible proposals if offerors are given an equal opportunity to negotiate and negotiations are confidential in accordance with section 41-2534, subsection F.

J. The director may establish by rule a fee that the department may collect for operation of the newborn screening program, including contracting for the testing pursuant to this section. The fee for the first specimen and hearing test shall not exceed thirty dollars. The fee for the second specimen and hearing test shall not exceed forty dollars.

K. For purposes of this section:

1. "Infant" means a child who is twenty-nine days of age to two years of age.

2. "Newborn" means a child who is not more than twenty-eight days of age.

COMMUNICABLE DISEASE REPORTING

These diseases are to be reported to the local health agency (county health department or Indian Health Service Unit) within five working days of diagnosis or treatment. Diseases in **bold** are reportable within 24 hours of diagnosis. Food handlers with disease marked with an asterisk (*) are also to be reported within 24 hours. Outbreaks of foodborne or waterborne disease should also be reported within 24 hours. Reports can be made on an ADHS Communicable Disease Reporting form, which includes the patient's name, telephone number, complete street address, date of birth, race, sex, ethnicity, date of onset, date of diagnosis, diagnosis, laboratory results and date, name of reporter, and the reporter's telephone number and complete address. Reports may also be telephoned or faxed to the local health agency.

Amebiasis*
Anthrax
Aseptic Meningitis: Viral
Botulism
Brucellosis
Campylobacteriosis*
Chancroid (*Haemophilus ducreyi*)
Chlamydia
Cholera
Coccidioidomycosis (Valley Fever)
Colorado Tick Fever
Conjunctivitis, Acute
Cryptosporidiosis
Dengue
Diphtheria
Ehrlichiosis
Encephalitis: Viral
Escherichia coli 0157:H7 infection*
Foodborne/Waterborne illness:
(Unspecified Agent)
Giardiasis*
Gonorrhea
Haemophilus Influenza: **Invasive Disease**
Hantavirus Infection
Hepatitis A*
Hepatitis B and Delta Hepatitis
Hepatitis C
Hepatitis, Non-A, Non-B
Herpes Genitalis
Human Immunodeficiency Virus (HIV)
Infection and Related Disease
Human T-cell Lymphotropic Virus
(HTLV-I/II) Type I and II Infection
Legionellosis (Legionnaires' Disease)
Leprosy (Hansen's Disease)
Leptospirosis
Listeriosis
Lyme disease
Malaria
Measles (Rubeola)
Meningococcal Invasive Disease
Mumps
Pertussis (Whooping cough)
Plague
Poliomyelitis
Psittacosis (Ornithosis)

Q fever
Rabies in Humans
Relapsing Fever (Borreliosis)
Reye Syndrome
Rocky Mountain Spotted Fever
Rubella (German Measles)
Rubella Syndrome, Congenital
Salmonellosis*
Scabies
Shigellosis*
Streptococcal Group A Invasive Disease
Streptococcal Group B Invasive Disease in Infants Less than 30 Days of Age
Syphilis
Taeniasis
Tetanus
Toxic shock syndrome
Trichinosis
Tuberculosis
Tularemia
Typhoid Fever*
Typhus Fever: Flea-borne
Vancomycin resistant *Enterococcus* sp.
Vancomycin resistant *Staphylococcus aureus*
Vancomycin resistant *Staphylococcus epidermidis*
Varicella (Chickenpox)
Vibrio infection
Yellow Fever
Yersiniosis

A clinical laboratory director, or authorized representative, shall submit to the Department a weekly written, or electronic report of positive laboratory findings for the following communicable disease pathogens:

Bordetella pertussis
Brucella sp.
Campylobacter sp.
Chlamydia trachomatis
Coccidioides immitis: culture or serologies
Cryptosporidium sp.
Escherichia coli 0157:H7
Group A Streptococcus: isolated from normally sterile site, tissue or body fluid
Group B Streptococcus: isolated from normally sterile site, tissue or body fluid
Haemophilus influenzae: isolated from normally sterile sites
Hantavirus
Hepatitis A Virus (anti HAV-IgM serologies)
Hepatitis B Virus (anti-Hepatitis B core-IgM serologies and Hepatitis B surface antigen serologies)
Hepatitis C Virus (anti-Hepatitis C RIBA, PCR or other confirmatory test)
Hepatitis Delta Virus
Human Immunodeficiency Virus (HIV) [please include western blot bands]
Human T-cell Lymphotropic Virus type I and II
Legionella sp.: culture or DFA
Listeriosis sp.: culture isolated from normally sterile sites only
Mycobacterium tuberculosis and its drugs sensitivity pattern
Neisseria gonorrhoeae
Neisseria meningitidis
Plasmodium sp.
Streptococcus pneumoniae and its drug sensitivity pattern: culture isolated from normally sterile sites only
Treponema pallidum (syphilis)
Vancomycin resistant *Enterococcus*
Vancomycin resistant *Staphylococcus aureus*
Vancomycin resistant *Staphylococcus epidermidis*
Vibrio sp.
Yersinia sp.

The written or electronic laboratory report shall include:

1. Name, and if available, address, and telephone number of the patient

2. Birth date of the patient

3. Reference number

4. Specimen type

5. Date of collection

6. Type of test

7. Test results

8. Ordering physician's name and telephone number

A clinical laboratory director, or authorized representative, shall submit isolates of the following organisms to the Arizona State Laboratory;

Bordetella pertussis
Haemophilus influenzae from sterile sites only
Group A *Streptococcus* from sterile sites only
Neisseria meningitidis
Salmonella sp.
Vancomycin resistant *Staphylococcus aureus*

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 20
ABORTION

ARTICLE 1
GENERAL PROVISIONS

36-2152. Parental consent; exception; hearings; time limits; violation; classification; definitions

A. A person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written consent from one of the minor's parents or the minor's guardian or conservator or unless a judge of the superior court authorizes the physician to perform the abortion pursuant to subsection B.

B. A judge of the superior court shall, on petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines that the pregnant minor is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant minor is not mature or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion on her without the consent from one of her parents or her guardian or conservator would be in her best interests and shall authorize a physician to perform the abortion without consent if the judge concludes that the pregnant minor's best interests would be served.

C. The pregnant minor may participate in the court proceedings on her own behalf. The court may appoint a guardian ad litem for her. The court shall advise her that she has the right to court appointed counsel and shall, on her request, provide her with counsel unless she appears through private counsel or she knowingly and intelligently waives her right to counsel.

D. Proceedings in the court under this section are confidential and have precedence over other pending matters. Members of the public shall not inspect, obtain copies of or otherwise have access to records of court proceedings under this section unless authorized by law. A judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a confidential record of the evidence to be maintained including the judge's own findings and conclusions. The minor may file the petition using a fictitious name. For purposes of this subsection, public does not include judges, clerks, administrators, professionals or other persons employed by or working under the supervision of the court or employees of other public agencies who are authorized by state or federal rule or law to inspect and copy closed court records.

E. The court shall hold the hearing and shall issue a ruling within forty-eight hours, excluding weekends and holidays, after the petition is filed. If the court fails to issue a ruling within this time period the petition is deemed to have been granted and the consent requirement is waived.

F. An expedited confidential appeal is available to a pregnant minor for whom the court denies an order authorizing an abortion without parental consent. The appellate court shall hold the hearing and issue a ruling within forty-eight hours, excluding weekends and holidays, after the petition for appellate review is filed. Filing fees are not required of the pregnant minor at either the trial or the appellate level.

G. Parental consent or judicial authorization is not required under this section if either:

1. The pregnant minor certifies to the attending physician that the pregnancy resulted from sexual conduct with a minor by the minor'' parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent or by a person who lives in the same household with the minor and the minors mother. The physician performing the abortion shall report the sexual conduct with a minor to the proper law enforcement officials pursuant to section 13-3620 and shall preserve and forward a sample of the fetal tissue to these officials for use in a criminal investigation.

2. The attending physician certifies in the pregnant minor's medical record that, on the basis of the physician's good faith clinical judgment, the pregnant minor has a condition that so complicates her medical condition as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

H. A person who performs an abortion in violation of this section is guilty of a class 1 misdemeanor. A person is not subject to any liability under this section if the person establishes by written evidence that the person relied on evidence sufficient to convince a careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this section are true.

I. For purposes of this section:

1. "Abortion" means the use of an instrument, medicine or drug or other substance or device with the intent to terminate a pregnancy for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does not include birth control devices or oral contraceptives that inhibit or prevent ovulation, fertilization or the implantation of a fertilized ovum within the uterus.

2. "Fetus" means any individual human organism from fertilization until birth.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 22
PROTECTION OF MINORS

ARTICLE 2
PRESERVING THE LIVES OF NEWBORN AND OTHER CHILDREN

36-2281. Infants; nutritional and medical denial or deprivation prohibited; definition

A. A person shall not deny or deprive an infant of nourishment with the intent to cause or allow the death of the infant for any reason including:

1. The infant was born with a handicap.

2. The infant is not wanted by the parent, parents or guardian.

3. The child is born alive by natural or artificial means.

B. A person shall not deprive an infant of necessary lifesaving medical treatment or surgical care.

C. This section shall not be construed to prevent an infant's parent, parents or guardian from refusing to give consent to medical treatment or surgical care which is not medically necessary, including care or treatment which either:

1. Is not necessary to save the life of the infant.

2. Has a potential risk to the infant's life or health that outweighs the potential benefit to the infant of the treatment or care.

3. Is futile treatment or treatment that will do no more than temporarily prolong the act of dying when death is imminent.

D. In determining whether any of the possible medical treatments will be medically necessary for an infant, reasonable medical judgments in selecting among alternative courses of treatment shall be respected.

E. In this article "infant" means a child less than one year of age.

36-2282. Duty to inform; reports of denial or deprivation; disciplinary action prohibited; report to department of economic security

A. Any health care institution with a perinatal, obstetrical or pediatric unit shall inform its administrators and other employees associated with the perinatal, obstetrical or pediatric unit of:

1. Their duty pursuant to section 13-3620 to report any denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of the infant.

2. Their right to make a report free from any disciplinary action by the health care institution.

3. A full description of the manner in which a report is to be made.

B. A health care institution shall not take or threaten to take any disciplinary action against any employee in retaliation for the employee making a report pursuant to section 13-3620.

C. A health care institution as specified in subsection A of this section shall report all suspected incidents of denial or deprivation of medically necessary treatment, surgical care or nourishment with the intent to cause or allow the death of the infant to the child protective services program of the department of economic security as each incident occurs.

36-2283. Certain information to parents required

Any health care institution with a perinatal, obstetrical or pediatric unit shall make available to each parent of any newborn child born with an identifiable handicap information it receives from public or private agencies regarding agencies which are available to provide the parent with assistance, information or support pertaining to the care of the child and the manner in which the agencies may be contacted.

TITLE 1
STATE AND LOCAL BOARDS AND DEPARTMENTS OF HEALTH

CHAPTER 23
PROTECTION OF FETUS OR EMBRYO

ARTICLE 1
GENERAL PROVISIONS

36-2302. Experimentation on human fetus or embryo prohibited; physician-patient privilege inapplicable

A. A person shall not knowingly use any human fetus or embryo, living or dead, or any parts, organs or fluids of any such fetus or embryo resulting from an induced abortion in any manner for any medical experimentation or scientific or medical investigation purposes except as is strictly necessary to diagnose a disease or condition in the mother of the fetus or embryo and only if the abortion was performed because of such disease or condition.

B. The physician-patient privilege as provided in section 13-4062, paragraph 4 shall not prevent the production of documents or records relevant to an investigation arising under this section. All documents or records produced in an action brought pursuant to this section shall be inspected by the court in camera, and before the documents or records are released to the requesting party, the court shall remove the names and other identifying information, if any, of the patients and substitute pseudonyms.

C. This section shall not prohibit routine pathological examinations conducted by a medical examiner or hospital laboratory provided such pathological examination is not a part of or in any way related to any medical or scientific experimentation.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 27
UNIFORM CONTROLLED SUBSTANCES ACT

ARTICLE 3
REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES

36-2522. Registration requirements

A. Every person who manufactures, distributes, dispenses or uses for scientific purposes any controlled substance within this state or who proposes to engage in the manufacture, distribution, dispensing of or using for scientific purposes any controlled substance within this state shall first:

1. Obtain and possess a current license or permit as a medical practitioner as defined in section 32-1901 or as a pharmacy, pharmacist, manufacturer or wholesaler pursuant to title 32, chapter 18.

2. Be a registrant under the federal controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 U.S.C. sec. 801 et seq.).

B. A person who is registered under this chapter to manufacture, distribute, dispense or use for scientific purposes controlled substances may possess, manufacture, distribute, dispense or use for scientific purposes those substances to the extent authorized by that person's license or permit in conformity with this chapter and title 32, chapter 18.

36-2525. Prescription orders; labels

A. In addition to requirements in section 32-1968, pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. Prescription orders for controlled substances shall be filed and records kept in conformity with the requirements of section 36-2523. A prescription order for a controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank.

B. Except in emergency situations in conformity with subsection C of this section or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner. A prescription order for a schedule II substance shall not be dispensed more than sixty days after the date on which the prescription order was issued. A prescription order for a schedule II substance shall not be refilled

C. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the

pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

D. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV which requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order shall not be filled or refilled more than six months after the date on which such prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order which shall be treated by the pharmacist as a new and separate prescription order.

E. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance.

H. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, date of dispensing, name of prescriber, name of patient or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV the label shall bear a transfer warning to the effect: “Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed”.

TITLE 36
PUBLIC HEALTH AND SAFETY

CHAPTER 36
TELEMEDICINE

ARTICLE 1
GENERAL PROVISIONS

36-3601. Definitions

For the purposes of this chapter:

1. “Health care decision maker” has the same meaning prescribed in section 12-2801.

2. "Health care provider" means a person licensed pursuant to title 32, chapter 7, 13, 15, 17, 18, 19.1, 25, 28, 29 or 33.

3. "Telemedicine" means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the physical presence of the patient, including audio or video communications sent to a health care provider for diagnostic or treatment consultation.

36-3602. Delivery of health care through telemedicine; requirements; exceptions

A. Except as provided in subsection E of this section, before a health care provider delivers health care through telemedicine, the treating health care provider shall obtain verbal or written informed consent from the patient or the patient's health care decision maker. If the informed consent is obtained verbally, the health care provider shall document the consent on the patient's medical record.

B. The patient is entitled to all existing confidentiality protections pursuant to section 12-2292.

C. All medical reports resulting from a telemedicine consultation are part of a patient's medical record as defined in section 12-2291.

D. Dissemination of any images or information identifiable to a specific patient for research or educational purposes shall not occur without the patient's consent, unless authorized by state or federal law.

E. The consent requirements of this section do not apply:

1. If the telemedicine interaction does not take place in the physical presence of the patient.

2. In an emergency situation in which the patient or the patient's health care decision maker is unable to give informed consent.

3. To the transmission of diagnostic images to a health care provider serving as a consultant or the reporting of diagnostic test results by that consultant.

36-3603. State jurisdiction; scope

The provisions of this article apply to the practice of telemedicine within the state of Arizona. Nothing in this article shall be construed to expand, reduce or otherwise amend the health care provider licensing requirements of title 32.

TITLE 44
TRADE AND COMMERCE

CHAPTER 1
CONTRACTS

ARTICLE 3
CAPACITY TO CONTRACT

44-132. Capacity of minor to obtain hospital, medical and surgical care; definition

A. Notwithstanding any other provision of law except as provided in title 36, chapter 20, article 1, and without limiting cases in which consent may otherwise be obtained or is not required, any emancipated minor, any minor who has contracted a lawful marriage or any homeless minor may give consent to the furnishing of hospital, medical and surgical care to such minor, and such consent shall not be subject to disaffirmance because of minority. The consent of the parent, or parents, of such a person is not necessary in order to authorize hospital, medical and surgical care. For the purposes of this section only, subsequent judgment of annulment of such marriage or judgment of divorce shall not deprive such person of his adult status once attained.

B. A health care provider acting in reliance on the consent of a minor who has authority or apparent authority pursuant to this section to consent to health care is not subject to criminal and civil liability and professional disciplinary action on the ground that he or she failed to obtain consent of the minor's parent, parents or legal guardian. This subsection does not affect any other cause of action permitted under title 12, chapter 5.1.

C. For purposes of this section, a homeless minor is an individual under the age of eighteen years living apart from his parents and who lacks a fixed and regular nighttime residence or whose primary residence is either a supervised shelter designed to provide temporary accommodations, a halfway house or a place not designed for or ordinarily used for sleeping by humans.

44-132.01. Capacity of minor to obtain treatment for venereal disease without consent of parent

Notwithstanding any other provision of the law, a minor who may have contracted a venereal disease may give consent to the furnishing of hospital or medical care related to the diagnosis or treatment of such disease and such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents or legal guardian of such a person shall not be necessary in order to authorize hospital or medical care.

44-133. Emergency consent for hospital care, medical attention or surgery by person in loco parentis

Notwithstanding any other provision of the law, in cases of emergency in which a minor is in need of immediate hospitalization, medical attention or surgery and after reasonable efforts made under the circumstances, the parents of such minor cannot be located for the purpose of consenting thereto, consent for said emergency attention may be given by any person standing in loco parentis to said minor.

44-133.01. Capacity of minor to consent to treatment for use of a dangerous drug or narcotic

Notwithstanding any other provision of law, any minor twelve years of age or older who is found, upon diagnosis of a licensed physician, to be under the influence of a dangerous drug or narcotic, which includes withdrawal symptoms, may be considered an emergency case and such minor is to be regarded as having consented to hospital or medical care needed for treatment for such. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents or legal guardian of such minor is not necessary to authorize hospital or medical care, except that such consent shall be equally valid if obtained.

TITLE 46
WELFARE

CHAPTER 4
ADULT PROTECTIVE SERVICES

ARTICLE 1
DUTY TO REPORT ABUSE OF INCAPACITATED OR VULNERABLE ADULTS

46-454. Duty to report abuse, neglect and exploitation of incapacitated or vulnerable adults, duty to make medical records available; violation; classification

A. A physician, hospital intern or resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of an incapacitated or vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has

occurred shall immediately report or cause reports to be made of such reasonable basis to a peace officer or to a protective services worker. The guardian or conservator of an incapacitated or vulnerable adult shall immediately report or cause reports to be made of such reasonable basis to the superior court. All of the above reports shall be made immediately in person or by telephone and shall be followed by a written report mailed or delivered within forty-eight hours or on the next working day if the forty-eight hours expire on a weekend or holiday.

C. Reports pursuant to subsections A and B shall contain:

1. The names and addresses of the adult and any persons having control or custody of the adult, if known.

2. The adult's age and the nature and extent of his incapacity or vulnerability.

3. The nature and extent of the adult's injuries or physical neglect or of the exploitation of the adult's property.

4. Any other information that the person reporting believes might be helpful in establishing the cause of the adult's injuries or physical neglect or of the exploitation of the adult's property.

D. Any person other than one required to report or cause reports to be made in subsection A who has a reasonable basis to believe that abuse or neglect of an incapacitated or vulnerable adult has occurred may report the information to a peace officer or to a protective services worker.

E. A person having custody or control of medical or financial records of an incapacitated or vulnerable adult for whom a report is required or authorized under this section shall make such records, or a copy of such records, available to a peace officer or adult protective services worker investigating the incapacitated or vulnerable adult's neglect, exploitation or abuse on written request for the records signed by the peace officer or adult protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

G. A person required to receive reports pursuant to subsection A, B or D may take or cause to be taken photographs of the abused adult and the vicinity involved. Medical examinations including radiological examinations of the involved adult may be performed. Accounts, inventories or audits of the exploited adult's property may be performed. The person, department, agency, or court that initiates such photographs, examinations, accounts, inventories or audits shall pay the associated costs in accordance with existing statutes and rules. If any person is found to be responsible for the abuse, neglect or exploitation of an incapacitated or vulnerable adult in a criminal or civil action, the court may order the person to make restitution as the court deems appropriate.

H. If psychiatric records are requested pursuant to subsection E, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

I. If any portion of a psychiatric record is excised pursuant to subsection H, a court, upon application of a peace officer or adult protective services worker, may order that the entire record or any portion of such record containing information relevant to the reported abuse or neglect be made available to the peace officer or adult protective services worker investigating the abuse or neglect.

J. A person who violates any provision of this section is guilty of a class 1 misdemeanor.

CANCER REPORTING BY PHYSICIANS

Arizona physicians are required by law (A.A.C. Title 9, Chapter 4, Article 4) to submit to the Arizona Cancer Registry, Arizona Department of Health services, within 30 days of diagnosis, a report of cancer cases meeting all of the following criteria:

Not seen in an Arizona hospital; and
Not seen in a cancer clinic (one that sees >100 cases per year); and
Not confirmed by a pathology laboratory licensed in Arizona

Physicians will report on every malignant neoplasm (solid or hematopoietic); carcinoma in situ; or benign tumor of the central nervous system. Localized skin cancer of the following types are not reportable: basal cell, squamous cell, papillary, or skin carcinoma not otherwise specified.

The forms for reporting of cancer are available from the Arizona Cancer Registry, Arizona Department of Health Services (542-7320).

NONCOMMUNICABLE DISEASE REPORTING

Pesticide Illnesses and Elevated Blood Lead Levels are reportable by physicians to the Arizona Department of Health Services, Office of Environmental Health (OEH). Reports may be written on forms supplied by ADHS or by phone. To obtain report forms or to report a case, call the OEH at 230-5865 or 1-800-367-6412, 3815 N. Black Canyon Hwy., Phoenix, Arizona 85015.

In accordance with A.A.C. R9-4-201, any health care professional or poison control center who participates in the diagnosis of a case of pesticide illness, or determines that an illness may be related to documented exposure to a pesticide, shall file a report within five days of the date of determining that the illness is or may be the result of pesticide exposure with the Arizona Department of Health Services. Any case or suspect case resulting in hospitalization or death must be reported within 24 hours of the hospital admission or death. Cluster illness shall be reported within 24 hours of the identification of the second case or suspect case. Reports may be made by telephone, in person or in writing and shall contain: patient's name, address, and telephone number, date of birth, race or ethnicity, gender, occupation, dates of onset and diagnosis, name of the pesticide (if known), name, address and telephone number of the person making the report, the reason for believing the illness to be pesticide related, whether the illness is caused by or related to pesticide exposure.

In accordance with A.A.C. R9-4-301, any physician who finds evidence of lead in whole blood at or above 10 micrograms of lead per deciliter of whole blood shall file a report of an elevated blood level with the Department as follows:

1. Reports shall be made within five days of the date of finding the level to be elevated.

2. Reports shall be by telephone or submitted in writing on forms supplied by the Department.

3. All reports shall include the patient's name, address, telephone number, the date of birth, race or ethnicity, gender, occupation, the level of lead and the date the blood lead level was found to be elevated. The report shall also include the name and address of the laboratory making the determination and the name, address and telephone number of the person making the report.

ARIZONA ADMINISTRATIVE CODE

TITLE 9
HEALTH SERVICES

CHAPTER 6
DEPARTMENT OF HEALTH SERVICES-COMMUNICABLE DISEASES

ARTICLE 2
COMMUNICABLE DISEASE REPORTING

R9-6-201. Responsibilities for Reporting

Within five business days of diagnosis or treatment, a physician or an administrator of a health care facility or an authorized representative shall submit a communicable disease report to the local health agency unless otherwise specified in this Chapter.

R9-6-202. Special Reporting Requirements

A. A physician or an administrator of a health care facility, or an authorized representative, shall submit a communicable disease report of a case or a suspect case of the following diseases and conditions within 24 hours of diagnosis to the local health agency by telephone or other equally expeditious means:

1. Botulism,
2. Cholera,
3. Diptheria
4. *Haemophilus influenzae* type b: invasive disease,
5. Measles (rubeola),
6. Meningococcal invasive disease,
7. Outbreaks of foodborne/waterborne illness,
8. Pertussis (whooping cough),
9. Plague,
10. Poliomyelitis,
11. Rabies in humans,
12. Rubella (German measles),
13. Tuberculosis diseases; including tuberculosis infection in a child less than 6 years of age,
14. Vancomycin resistant *Staphylococcus aureus*, and
15. Yellow fever.

B. A physician or an administrator of a health care facility, or an authorized representative, shall submit a communicable disease report of a case, suspect case or carrier of the following diseases in a food handler, nursing home caregiver or child care worker within 24 hours of diagnosis to the local health agency by telephone or other equally expeditious means:

1. Amebiasis,
2. Campylobacteriosis,
3. *Escherichia coli* 0157:H7 infection,
4. Giardiasis,
5. Hepatitis A or unspecified,

6. Salmonellosis,
7. Shingellosis, and
8. Typhoid fever.

R9-6-203. Communicable Disease Reports

A. The Department shall supply forms which shall be used for written reports of suspected or confirmed disease. The forms shall include:

1. Patient's name, address, telephone number, date of birth, race or ethnicity, gender, and occupation;

2. Disease, date of onset, date of diagnosis, date of laboratory confirmation, and test results; and

3. Name, address, and telephone number of the person or agency making the report.

B. The local health agency shall forward the original copy of the reports to the Department each week, specifying what action, if any, was initiated. The local health agency shall forward to the Department reports of disease in a nonresident of that jurisdiction who is or has been treated in that jurisdiction.

TITLE 9
HEALTH SERVICES

CHAPTER 6
DEPARTMENT OF HEALTH SERVICES – COMMUNICABLE DISEASES

ARTICLE 3
CONTROL MEASURES FOR COMMUNICABLE AND PREVENTABLE DISEASES

R9-6-331. Human Immunodeficiency Virus (HIV) Infection and Related Disease

A. Case Control measures:

1. A health care provider or operator of a blood bank, blood center, plasma center, tissue bank, organ bank, or milk bank shall not use donated blood or blood components, plasma, milk, organs, semen, or other tissue from a case or carrier for transfusion, transplantation, or consumption.

2. A health care provider or operator of a blood bank, blood center, plasma center, tissue bank, organ bank, or milk bank who orders or administers a test for HIV or HIV antibodies and receives a test result that the health care provider or operator interprets as positive for HIV or HIV antibodies shall notify the subject or arrange for the subject to be notified of the test result within 30 days after receiving the test result.

3. A health care provider or operator of a blood bank, blood center, plasma center, tissue bank, organ bank, or milk bank shall provide or arrange for subject counseling at the time of notification that includes the following information:

a. The characteristics of HIV;

b. The syndrome caused by HIV and its symptoms;

c. The measures that are effective in reducing the likelihood of transmitting HIV to another;

d. The need to notify individuals, including a spouse, with whom the subject has had sexual contact or has shared needles of exposure to HIV; and

e. The availability of assistance from local health agencies in notifying those individuals described in subsection (A)(3)(d).

TITLE 9
HEALTH SERVICES

CHAPTER 6
DEPARTMENT OF HEALTH SERVICES – COMMUNICABLE DISEASES

ARTICLE 9

HIV – RELATED TESTING

R9-6-902. Consent for HIV-related testing

A. An individual ordering an HIV-related test shall obtain consent for the test, unless the test has been ordered by a court under A.R.S. §§ 8-341, 13-1210, or 13-1415 or falls under A.R.S. §36-663(D).

1. If the test is ordered in a hospital, the individual ordering the test shall obtain written informed consent as specified in subsection (B).

2. If the test is ordered outside a hospital by a physician, a registered nurse practitioner, or a physician's assistant, the individual ordering the test shall obtain either written informed consent as specified in subsection (B) or oral informed consent.

3. If the test is ordered outside a hospital by a health professional licensed under A.R.S. Title 32, but not listed in subsection (A)(2), who is authorized to provide HIV-related tests within the health professional's scope of practice, the individual ordering the test shall obtain written informed consent as specified in subsection (B).

4. If the HIV-related test is performed anonymously, the individual ordering the test shall obtain oral consent and shall not make a record containing personal identifying information about the subject.

B. An individual obtaining written, informed consent for an HIV-related test shall use the form shown on Exhibit A (English) or Exhibit B (Spanish).

1. Except as described in subsection (A)(4), an individual using the consent form may add the following information in the Identifying Information section of the form.

a. The subject's name and identifying number,

b. Facility identifying information,

c. Facility processing codes,

d. The subject's race and ethnicity,

e. The subject's address, and

f. The subject's date of birth, and sex.

2. This form may be reproduced to accommodate a multiple copy or carbonless form.

Exhibit A
Consent for HIV-Related Testing

Information on HIV

The Human Immunodeficiency Virus (HIV) is the virus that causes Acquired Immune Deficiency Syndrome (AIDS). HIV is spread through the exchange of blood, (including transfusion), sexual fluids (semen and vaginal secretions) and sometimes through breast milk. HIV can be transmitted from mother to baby during pregnancy or childbirth.

HIV-Related Testing

There are several laboratory tests for HIV. The most common is the antibody test, which is a blood test that detects antibodies produced by the body in response to infection with HIV.

A positive antibody test consists of a repeatedly reactive (the same specimen testing positive twice) enzyme immunoassay (EIA) and a reactive Western blot or other confirmatory test. A positive antibody test means that an individual is infected with HIV; however, this does not always mean that the individual has AIDS. Research indicates that early and regular medical care is important to the health of an individual with HIV. Certain treatments are now available to treat HIV-associated illness.

A negative antibody test indicates that no detectable antibodies are present in the blood. An individual may not have antibodies because the individual is not infected with HIV or because detectable antibodies have not yet been made in response to infection. The production of these antibodies could take three months or longer. Therefore, in certain cases, an individual may be infected with HIV and yet test negative. Individuals with a history of HIV risk behaviors within the past three to six months should consider retesting.

Like any test, HIV-related testing is not accurate 100% of the time and may occasionally produce both false positive and false negative results.

Means to Reduce Risk for Contracting or Spreading HIV

Risk of contracting or spreading HIV can be reduced by avoiding or decreasing contact with blood and sexual fluids (semen and vaginal secretions). Some methods of decreasing the risk of contracting or spreading HIV include abstaining from sexual intercourse, using methods that limit exposure to body fluids during intercourse (such as the proper use of condoms), not engaging in injecting drug use, not sharing needles, or using bleach and water to clean needles and syringes. The use of certain medications by an HIV-infected woman during pregnancy may reduce the chances of HIV transmission from mother to child.

Disclosure of Test Results

I understand that if the HIV test results are positive, the physician or facility representative conducting the test will make reasonable efforts to notify me of the results at the address or phone number I have provided, and will provide or arrange for counseling as required by Arizona state laws and regulations regarding (1) HIV (2) AIDS and (3) appropriate precautions to reduce the likelihood of transmission of the virus to others. I agree to assume all risks that may result if I cannot be contacted.

I understand that Arizona law and regulations require that if my test results are positive, they will be submitted to local and state health departments. Information received by these health departments may only be released (1) if there is written authorization from the individual being tested; (2) for statistical purposes without individual identifying information, or (3) as otherwise required or allowed by law.

Identifying Information

I also understand that the physician or facility may report to the Arizona Department of Health Services identifiable 3rd parties such as a spouse or sex partner who may be at risk of contracting the virus if I do not release this information. Finally, I understand that the test results may be placed in a medical record kept by the facility or person administering the test and that persons involved in providing or paying for my health care may have access to that information.

Additional Sources of Information on HIV

Additional information regarding testing for HIV is available through your county health department and, in the Phoenix metropolitan area, (602)234-2752, the Tucson metropolitan area, (520)791-7676, or outside the Phoenix area, 1-800-334-1540. National Hotline: English, 1-800-342-2437; Spanish, 1-800-344-7432; TTY/TDD, 1-800-243-7012.

Consent

I have been given the opportunity to ask questions regarding this information and have had my questions answered to my satisfaction. I understand that this test can be performed anonymously at a public health agency. I also understand that I may withdraw my consent at any time before a blood sample is taken in order to conduct a test, and that I may be asked to put my decision to withdraw my consent in writing if I have signed this consent. I also understand that this is a voluntary test and that I have a right to refuse to be tested.

My signature below indicates that I have received and understand the information I have been given and I voluntarily consent to and request HIV-related testing.

_____
Patient/Subject Name (Printed)

_____
Patient/Subject or Legal Representative Signature

_____
Date

_____
Witness

NOTICE: The Arizona Department of Health Services does not discriminate on the basis of disability in the administration of its programs and services as prescribed by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. If you need this publication in an alternative format, please contact the ADHS Office of HIV/STD Services at (602) 230-5819 or 1-800-367-8939 (state TDD/TTY Relay).

Exhibit B
Consentimiento Para la Prueba de VIH

Información sobre el VIH

El virus de Immunodeficiencia Humana (VIH) es el virus que causa el Sindrome de Immunodeficiencia Adquirida (SIDA). VIH se transmite a través del contacto con sangre (incluyendo la transfusión), fluídos sexuales (semen y secreciones vaginales) y en algunas ocaciones a través de la leche materna. VIH puede ser transmitido de la madre al bebé durante el embarazo o al momento del parto.

La prueba del VIH

Existen pruebas de laboratorio para saber si una persona está infectada con el VIH. La más común es la prueba de anticuerpos. Esta es un exámen de sangre que detecta los anticuerpos producidos por el cuerpo al reaccionar contra la infección por VIH.

Un examen de anticuerpos positivo consiste de una prueba por immunoanálisis enzimático (EIA) (realizada dos veces en cada espécimen) y una prueba reactiva por Western Blot u otras pruebas confirmatorías. El resultado positivo a la prueba de anticuerpos quiere decir que el individuo está infectado con el VIH; sin embargo, esto no siempre quiere decir que el individuo tenga el SIDA. Investigaciones médicas señalan que atención médica temprana y contínua es importante para la salud de una persona con el VIH. Hoy en día se dispone de tratamientos para retardar las enfermedades asociadas con el SIDA.

Un exámen de anticuerpos negativo indica que no se han detectado anticuerpos en la sangre. Un individuo puede no tener anticuerpos por que el individuo no está infectado(a) o porque aún no se han producido suficientes anticuerpos contra la infección. Estos anticuerpos pueden tardar tres meses o más para ser producidos. De tal manera, en ciertos casos, un individuo puede estar infectado con el VIH y su preuba resultar negativa. Los individuos que han tenido comportamiento de alto riesgo en los últimos tres a seis meses deberían pensar en repetir la prueba.

Como cualquier prueba, la prueba del VIH no es 100% segura y en alguna ocasión puede producir resultados falsos ya sea positivos o negativos.

Maneras de reducir el riesgo de infección o transmisión del VIH

El riesgo de contraer o transmitir el VIH se puede reducir al evitar contacto con la sangre y fluídos sexuales (semen y secreciones vaginales). Algunos métodos para disminuir el riesgo de infección o transmisión del VIH incluyen: abstinecia sexual, usar métodos que limitan el contacto de fluídos corporales durante la relaciones sexuales (como el uso correcto de condones), no usar drogas intravenosas, no compartir agujas, y usar "cloro" (blanqueador) y agua para limpiar las jeringas y las agujas. En mujeres infectadas con VIH, el uso de ciertos medicamentos durante el embarazo, puede reducir el riesgo del transmissión del VIH de madre a hijo.

El resultado de la prueba

Entiendo que si el resultado de la prueba del VIH es positivo, el doctor o el representante de la institución que hizo el exámen va a hacer esfuerzos suficientes para notificarme del resultado a la dirección (domicilio) o al teléfono que he proporcionado y que me dará información, cumpliendo con los requisitos de la ley estatal de Arizona, sobre (1) el VIH, (2) el SIDA, y (3) las precauciones necesarias para reducir la posibilidad de transmisión del virus a otras personas. Estoy de acuerdo en asumir todos los riesgos que resultarán de no poder contactarme.

Entiendo que la ley estatal de Arizona exige que si el resultado de mi prueba es positivo, éste se reportará a los departamentos de salud local y estatal. La información que estos departamentos reciben solamente puede ser revelada a otras personas: (1) si hay una autorización por escrito de la persona que se ha hecho la prueba; (2) por razones de estudios estadisticos sin revelar la identidad del individuo, o (3) por cualquier otra razón que la ley permita.

Identifying Information/Datos de Identidad

También entiendo que el doctor o la institución puede reportar al Departamento de Salud del Estado de Arizona, la identidad de terceras personas como: los esposos(as) o los compañeros(as) sexuales que pueden estar en riesgo de contraer con el virus si decido no darles esta información. Por último, entiendo que el resultado de la prueba puede guardarse con el resto de mi información médica en la agencia o por la persona que hizo el examen; y que las personas encargadas de proveer o pagar por el cuidado de mi salud pueden tener acceso a esta información.

Otras fuentes de información sobre el VIH

Información adicional sobre el examen del VIH está disponible a través del departamento de salud de su condado. En el área metropolitana de Phoenix llame al (602)234-2752, en el área metropolitana de Tucson (520)791-7676, y en el resto de Arizona 1-800-334-1540. Líneas telefónicas a nivel nacional son: en inglés 1-800-342-2437; en español 1-800-344-7432. (TTY/TDD) Transmisión de voz 1-800-243-7012.

Consentimiento

Se me ha dado la oportunidad de hacer preguntas respecto a esta información y me han sido contestadas satisfactoriamente. Entiendo que este exámen se puede hacer de forma anónima en una agencia de salud pública. También entiendo que puedo retirar mi consentimiento en cualquier momento antes de que me saquen la sangre para hacer la prueba y que me pueden pedir que ponga por escrito mi decisión de retirar mi consentimiento si ya habiá firmado este permiso. Entiendo también que este exámen es voluntario y que tengo el derecho a negarme a que se me haga la prueba.

Mi firma indica que he recibido y he entendido la información que se me ha proporcionado y que voluntariamente autorizo y solicito la prueba del VIH.

_____
Nombre del paciente (letra imprenta)

_____
Firma del paciente o de su representante legal

_____
Fecha

_____
Festigo

AVISO

El Departamento de Salud del Estado de Arizona no discrimina basado en los impedimentos de las personas en la administración de los progamas y sevicios ordenado por la ley de 1990: Americanos con Impedimentos, Título II y la Sección 504 de la ley de Rehabilitación de 1973. Si usted necesita esta publicación por otros medios de comunicación, favor ponerse en cantacto con el Departamento de Salud del Estado de Arizona, Oficina de Servicios de VIH/ETS al 1-800-842-4681 (transmisión de voz estatal) or 1-800-367-8939 (transmisión TDD/TYY estatal).

ARIZONA ADMINISTRATIVE CODE

TITLE 17
TRANSPORTATION

CHAPTER 4
DEPARTMENT OF TRANSPORTATION

ARTICLE 5
SAFETY

R17-4-501. Definitions

The following definitions apply to this Article unless otherwise specified:

A. Definitions.

1. “Adaptation” means a modification of or addition to the standard operating controls or equipment of a motor vehicle.

2. "Applicant" or “licensee” means a person:

a. Applying for an Arizona driver license or driver license renewals, or
b. Required by the Division to complete an examination successfully or to obtain an evaluation.

3. "Application" means the Division form required to be completed by or for an applicant for a driver license or driver license renewal.

4. “Arizona Driver License Manual” or “manual” means the reference booklet for applicants, issued by the Division, containing non-technical explanations of the Arizona motor vehicle laws.

5. “Aura” means a sensation experienced before the onset of a neurological disorder.

6. “Certified substance abuse counselor” is defined in A.R.S. § 28-3005(C)(4).

7. “Commercial Driver License physical qualifications” or “CDL physical qualifications” means driver medical qualification standards for a person licensed in class A, B, or C to operate a commercial vehicle as prescribed under 49 CFR 391, incorporated by reference under R17-5-202 and R17-5-204.

8. "Director" means the Division Director or the Division Director’s designee.

9. “Disqualifying medical condition” means a visual, physical, or psychological condition, including substance abuse, that impairs functional ability.

10. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.

11. "Driver License" is defined in A.R.S. § 28-101(19).

12. “Evaluation” means a medical assessment of an applicant or licensee by a specialist as defined under subsection (22) to determine whether a disqualifying medical condition exists.

13. “Examination” means a testing or evaluating an applicant’s or licensee’s:

a. Ability to read and understand official traffic control devices.
b. Knowledge of safe driving practices and the traffic laws of this state, and
c. Functional ability.

14. “Functional ability” means the ability to operate safely a motor vehicle of the type permitted by an Arizona driver license class or endorsement.

15. “Identification number” means a distinguishing number assigned by the Division to a person for a license or instruction permit.

16. "Licensee" means a person issued a driver license by this state.

17. "Licensing Action" means an action by the Division to:

a. Issue, deny, suspend, revoke, cancel, or restrict a driver license, or
b. Require an examination or evaluation of an applicant or licensee.

18. "Medical screening questions and certification" means the questions and certification on the application, as shown in Exhibit A following R17-4-502.

19. “Neurological disorder” means a malfunction or disease of the nervous system.

20. "Physician" means a person licensed to practice medicine or osteopathy in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.

21. “Seizure” means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.

22. “Specialist” means:

a. A physician who is a surgeon or a psychiatrist;
b. A physician whose practice is limited to:
   i. A particular anatomical or physiological area or function of the human body, or
   ii. Patients within a specific age range; or
c. A psychologist.

23. “Substance abuse” means:

a. Use of alcohol in a manner that makes the user an alcoholic as defined in A.R.S. §36-2021(1), or
b. Drug dependency as described in A.R.S. § 36-2501(A)(5).

24. “Substance abuse evaluation” means an assessment by a physician, specialist, or certified substance abuse counselor to determine whether the use of alcohol or a drug impairs functional ability.

25. “Successful completion of an examination” means an application or licensee:

a. Establishes the visual, physical, and psychological ability to operate a motor vehicle safely, or
b. Achieves a score of at least 80 percent on a written test and road test.

R17-4-503. Vision Standards.

A. Definitions.

1. "Binocular Vision" means vision in both eyes.

2. "Conventionally Corrected Visual Acuity" means distance vision corrected by glasses or contact lenses but not by telescopic lenses.

3. "Diplopia" means double vision.

4. "Field of Vision" means the area in which objects may be seen when the eye is fixed.

5. "Impaired Night Vision" means below normal ability to see in reduced light.

6. "Monocular Vision" means the ability to see in one eye only.

7. "Optometrist" means a doctor of optometry licensed to practice in Arizona, a contiguous U.S. State, or employed by the Federal government and practicing in Arizona.

8. "Retinitis Pigmentosa" means a chronic progressive inflammation of the retina with atrophy and pigmentary infiltration of the inner layers.

9. "Snellen Chart" means a chart imprinted with lines of black letters graduating in size for testing visual acuity.

10. "Telescopic Lens" means a corrective lens which uses magnification as the main method of obtaining minimal visual acuity.

11. "Visual Acuity" means ability to see clearly.

B. Standard.

1. Visual Acuity. Conventionally corrected visual acuity must be 20/40 in at least one eye.

2. Field of Vision. Field of vision must be 70 degrees, plus 35 degrees on the opposite side of the nose, in at least one eye.

C. Restrictions.

1. Persons with conventionally corrected vision must wear corrective lenses at all times when driving.

2. Persons with diagnosed impaired night vision shall be restricted to daytime driving only.

3. Persons with binocular vision and with visual acuity (including with conventional correction) of 20/50 or 20/60, in both eyes together, will be restricted to daytime driving only.

D. Screening Process.

1. Visual acuity and field of vision screening may be administered by the Department, a Physician, or an Optometrist.

2. Persons cannot wear telescopic lenses while having their vision screened.

3. Department screening for visual acuity will be conducted through the use of visual screening equipment or the Snellen Chart to determine if the person's corrected vision is 20/40 in at least one eye.

4. The Department screening for field of vision will be conducted through the use of visual screening equipment to determine if the person's field of vision meets minimum standards.

E. Reporting Requirements.

1. If the person wishes to have initial visual acuity and visual field screening done by a Physician or Optometrist, rather than by the Department, the Medical Examination must be submitted to the Department.

2. If a person does not meet the vision standards, the Department will require a Medical Examination from a Physician or Optometrist.

3. Persons having any of the following conditions will be required to file a Medical Examination completed by a Physician or Optometrist.

a. Diagnosed retinitis pigmentosa.
b. Diagnosed diplopia.
c. Diagnosed impaired night vision.

F. Content of Medical Examination.

1. Examination cannot be older than 3 months from date of submission to the Department.

2. Visual acuity and field of vision results.

3. Identification of the person who is monocular.

4. Identification of persons having the conditions referred to in R17-4-503(E)(3).

5. Diagnosis of any progressively deteriorating eye disease.

6. Any recommendations on frequency of reporting requirements for this person, in addition to those required by the Department.

7. Suggested restrictions on driving, in addition to those required by the Department.

8. Any recommendations on the person's functional ability to safely operate a motor vehicle.

R17-4-506. Neurological Standards.

A. Driver license application.

1. A person who has a seizure in the three months before applying for a driver license shall undergo a medical examination as provided in R17-4-502,

2. After the medical examination under R17-4-502, the person or the person’s physician shall submit the medical examination report to the Division.

3. The Division shall not issue a driver license to a person if the medical examination report shows that the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.

B. Driver license revocation.

1. A person with a driver license or non-resident driving privileges who experiences a seizure shall cease driving and:

a. Undergo a medical examination as provided in R17-4-502;
b. Submit the medical examination report to the Division; and
c. Undergo a follow-up medical examination within one year after the seizure or within a shorter time, as recommended by a physician.

2. After each medical examination, the person or person's physician shall submit the applicable medical examination report to the Division.

3. The Division shall revoke a person's driver license or nonresident driver privileges if any medical examination report shows the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.

C. Medical examination report. A medical examination report under this Section shall include the following information:

1. Age at onset of seizures, diagnosis, and history;

2. Aftereffects of seizures;

3. EEG findings, if any;

4. Description of cause, frequency, duration, and date of most recent seizure;

5. Current medications, including dosage, side effects, and serum level; and

6. A physician's medical opinion as to whether the neurological disorder will affect the person's ability to operate a motor vehicle safely.

D. Physician's medical opinion. A neurological disorder does not affect a person's ability to operate a motor vehicle safely if a physician concludes with reasonable medical certainty that:

1. Any seizure that occurred within the last three months was due to a change in anticonvulsant medication ordered by a physician and that seizures are under control after the change in medication.

2. Any seizure that occurred within the last three months was a single event that will not recur in the future.

3. Any seizure that is likely to occur but has an established pattern of occurring only during sleep; or

4. There is an established pattern of an aura of sufficient duration to allow the person to cease operating a motor vehicle immediately at the onset of the aura.

A REFERENCE TO THE FEDERAL CONTROLLED SUBSTANCES ACT OF 1970

21 U.S.C. 811
COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT (1970)

TITLE II
CONTROLLED SUBSTANCE ACT

This legislation became fully effective on May 1, 1971.

The drugs that come under jurisdiction of the Drug Enforcement Administration (DEA) formerly BNDD and the Controlled Substances Act are divided into five schedules. The schedules are as follows:

SCHEDULE I (CI) SUBSTANCES

The controlled substances in this schedule are those that have no accepted medical use in the United States (U.S.), are not accepted as safe for use under medical supervision, and have a high abuse potential. Some examples are heroin, marijuana, LSD, peyote, mescaline, psilocybin, MDA, MDMA, ketobemidone, acetylmethadol, fenethylline, tilidine, methaqualone and certain fentanyl and merperidine analogs.

SCHEDULE II (CII) SUBSTANCES

The controlled substances in this schedule have a high abuse potential with severe psychological or physical dependence liability, but have accepted medical use in the U.S. CII controlled substances consist of certain narcotic, stimulant, and depressant drugs. Some examples of CII narcotics are: opium, morphine, codeine, hydromorphone (Dilaudid), methadone, meperidine (Demerol), cocaine, oxycodone (Percodan), anileridine (Leritine), the immediate precursor phenylacetone (P-2-P), and oxymorphine (Numorphan). Also in CII are the stimulants amphetamine (Dexedrine) methamphetamine (Desoxyn), phenmetrazine (Preludin), and methylphenidate (Ritalin); the depressants amobarbital, pentobarbital, secobarbital, and fentanyl (Sublimaze), etorphine hydrochloride, and phencyclidine (PCP).

SCHEDULE III (CIII) SUBSTANCES

The controlled substances in this schedule have an abuse potential and dependence liability less than those in CI and CII, and have an accepted medical use in the U.S. They include preparations containing limited quantities of certain narcotic drugs, and other non-narcotic drugs such as: derivatives of barbituric acid except those that are listed in another schedule, gluthethimide (Doriden), methyprylon (Nodular), nalorphine, benzphetamine, chlorphentermine, clortermine, and phendimetrazine.

SCHEDULE IV (CIV) SUBSTANCES

The controlled substances in this schedule have an abuse potential and dependence liability less than those listed in CIII and have an accepted medical use in the U.S. They include such drugs as: barbital, phenobarbital, methylphenobarbital, chloral hydrate, ethchlorvynol (Placidyl), ethinamate (Valmid), paraldehyde, methohexital, fenfluramine, diethylpropion, phentermine, chlordiazepoxide (Librium), diazepam (Valium), oxazepam (Serax), clorazepate (Tranxene), flurazepam (Dalmane), lorazepam (Ativan), alprazolam (Xanax), temazepam (Restoril), triazolam (Halcion), mebutamate, dextropropoxyphene (Darvon) and Petazocine (Talwin).

SCHEDULE V (CV) SUBSTANCES

The controlled substances in this schedule have an abuse potential and dependence liability less than those listed in CIV and have an accepted medical use in the U.S. They are often available without prescription, and include preparations containing limited quantities of certain narcotic drugs generally for antitussive and antidiarrheal purposes. Buprenorphine is also a CV drug.

21 U.S.C. 1306
PRESCRIPTIONS

21 C.F.R. §1306.07. Administering or dispensing of narcotic drugs.

(a) The administering or dispensing directly (but not prescribing) of narcotic drugs listed in any schedule to a narcotic drug dependent person for "detoxification treatment" or "maintenance treatment" as defined in section 102 of the Act (21 U.S.C. 802) shall be deemed to be within the meaning of the term "in the course of his professional practice or research" in section 308(e) and section 102(20) of the Act (21 U.S.C. 828(e)): Provided, That the practitioner is separately registered with the Attorney General as required by section 303(g) of the Act (21 U.S.C. 823(g)) and then thereafter complies with the regulatory standards imposed relative to treatment qualification, security, records and unsupervised use of drugs pursuant to such Act.

(b) Nothing in this section shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three days and may not be renewed or extended.

(c) This section is not intended to impose any limitations on a physician or authorized hospital staff to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or to administer or dispense narcotic drugs to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

21 C.F.R. §1306.04. Purpose of issue of prescription.

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

(b) A prescription may not be issued in order for an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients.

(c) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for "detoxification treatment" or "maintenance treatment" as defined in Section 102 of the Act (21 U.S.C. 802).

21 C.F.R. §1306.05. Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, an signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g. J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of the practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by these regulations.

(b) An individual practitioner exempted from registration under § 1301.22(c) of this chapter shall include on all prescriptions issued by him or her the registration number of the hospital or other institution and the special internal code number assigned to him or her by the hospital or other institution as provided in § 1301.22(c) of this chapter, in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.

(c) An official exempted from registration under § 1301.22(c) shall include on all prescriptions issued by him his branch of service or agency (e.g., “U.S. Army” or “Public Health Service” and his service identification number in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his social security identification number. Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.